

SPECIAL SESSION

JOURNAL OF THE FLORIDA SENATE

At a Special Session of the Florida Senate convened under Section 7, Article IV, of the Constitution of the State, as revised in 1968, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.

Tuesday, February 26, 1974

In pursuance of the Proclamation of Senator Mallory E. Horne, President of the Senate of the State of Florida, the Senate met in Special Session at 10:00 a.m., and was called to order by the President; the Secretary of the Senate, Elmer O. Friday, and the Sergeant at Arms of the Senate, John D. Melton, being at their posts.

The Proclamation of the President convening the Senate in Special Session was read as follows:

PROCLAMATION

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE:

WHEREAS, Section 7 of Article IV of the Constitution of Florida adopted by the people in the General Election of 1968 and effective on January 7, 1969, authorizes the President of the Senate to convene the Senate in special session for the consideration of executive suspensions; and

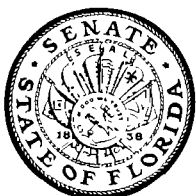
WHEREAS, the section was adopted to allow the Senate to take up these matters at a time when the entire Legislature would not have to be in session engaged in the legislative process; and

WHEREAS, the Governor has suspended a number of local officials since the Senate last was in session on June 6, 1973; and

WHEREAS, reports on several suspension cases dating back before the time the Senate was last in session should also now be presented to the Senate for consideration,

NOW, THEREFORE, I, Mallory E. Horne, as President of the Senate of Florida, by virtue of the power and authority vested in me by Article IV, Section 7, of the Constitution of the State of Florida, do hereby convene the Senate of the State of Florida in special session at the Capitol at 10:00 a.m. on February 26, 1974.

This call shall be limited to consideration of such suspensions by executive order which shall be presented by the Special Master on Executive Suspensions.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Senate of Florida to be affixed at Tallahassee, the Capitol, this 21st day of January, A. D. 1974.

MALLORY E. HORNE
President of The Florida Senate

ATTEST:
ELMER O. FRIDAY
Secretary of The Florida Senate

By direction of the President the roll was called and the following Senators were recorded present:

Mr. President	Gruber	Pettigrew	Trask
Barron	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Firestone	Lane (23rd)	Saylor	Williams
Gallen	Lewis	Scarborough	Wilson
Gillespie	McClain	Sims	
Gordon	Myers	Smathers	
Graham	Peterson	Stolzenburg	

33. A quorum present.

Excused: Senators Brantley, Lane (31st), Sykes, Winn and Zinkl; Senator Glisson until 10:30 a. m.

Prayer by Senator Lewis:

Let us pray. As we approach this day's business on suspensions, which is probably one of the most serious things that the Senate ever faces, I wish you would all join with me in asking the Lord's Prayer to give us the divine guidance that the decisions we make will be satisfactory and just.

Our Father, which art in heaven, Hallowed be thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil. Amen.

The Senate pledged allegiance to the flag of the United States of America.

By direction of the President, the following communications and Executive Orders were read:

Honorable Melville C. Bass
301 East Camphor
Avon Park, Florida 33825

September 18, 1973

Dear Mr. Bass:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated September 18, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-55

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, MELVILLE C. BASS is presently serving as a member of the Board of County Commissioners of Highlands County, and

WHEREAS, based upon a report of the Honorable GLEN DARTY, State Attorney of the Tenth Judicial Circuit, and an investigation conducted by this office, it appears that it is in the best interest of the citizens of the State of Florida that MELVILLE C. BASS be immediately suspended from the public office which he now holds, upon the constitutional grounds hereinafter set forth;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, Governor of the State of Florida, pursuant to the Constitution and the Laws of Florida, do hereby find, determine, and for the purposes of Section 112.41, Florida Statutes, allege and specify:

A. That MELVILLE C. BASS is and, at all times material hereto, was a "county officer" within the meaning of Article IV, Section 7, Florida Constitution, 1968, to wit: Member, Board of County Commissioners, Highlands County, Florida.

B. That duly constituted meetings of a county commission provide the principle, if not exclusive, authorized forum for the discharge of the duties of members of such commission.

C. That a public officer, such as a member of the board of county commissioners of a county, has a duty to refrain from conduct which is unlawful or illegal and the probable consequences of which may result in incarceration and thus the substantial impairment of the officer's ability to perform his official duties.

D. That on May 27, 1973, in Highlands County, Florida, MELVILLE C. BASS was arrested and charged with violating Section 316.028, Florida Statutes, to wit: operating a motor vehicle while under the influence of an intoxicating beverage, to which charge MELVILLE C. BASS did enter a plea of "guilty" in the County Court of Highlands County.

E. That on August 6, 1973, MELVILLE C. BASS was arrested and charged with violating Section 316.028, Florida Statutes, to wit: operating a motor vehicle while under the influence of an intoxicating beverage.

F. That on August 26, 1973, MELVILLE C. BASS was arrested and charged with violating Section 316.028, Florida Statutes, to wit: operating a motor vehicle while under the influence of an intoxicating beverage. On this occasion refused to submit to a chemical test for intoxication.

G. That MELVILLE C. BASS has attended only 25 of 45 meetings held by the County Commission of Highlands County.

H. That the aforesaid acts constitute offenses of malfeasance, misfeasance, neglect of duty, drunkenness, or incompetence as such offenses are used in Article IV, Section 7(a), Florida Constitution (1968).

I. That the interest of the residents of Highlands County, Florida, and the citizens of the State of Florida can best be served by the immediate suspension of MELVILLE C. BASS from the public office from which he now holds.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and Laws of Florida, the following Executive Order is hereby promulgated, effective at 5 o'clock p.m. on September 18th, 1973.

Section 1.

That MELVILLE C. BASS be, and he is hereby suspended as and from the public office which he now holds, to wit: Member, Board of County Commissioners, Highlands County, Florida.

Section 2.

That MELVILLE C. BASS be, and he is hereby prohibited from performing any official act, duty or function of any public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until further executive order, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 18th day of September, A.D. 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Mr. Melville C. Bass
301 East Camphor
Avon Park, Florida 33825

November 7, 1973

Dear Mr. Bass:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Amended Executive Order of Suspension dated November 7, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-72

AMENDED EXECUTIVE ORDER OF SUSPENSION

WHEREAS, MELVILLE C. BASS has been previously suspended from the public office which he then held, to wit: Mem-

ber, Board of County Commissioners, Highlands County, Florida, by Executive Order 73-55, effective September 18, 1973, and

WHEREAS, based upon a supplemental report of the Honorable GLEN DARTY, State Attorney of the Tenth Judicial Circuit, it appears that Executive Order 73-55 should be amended to reflect all presently known grounds for the continued suspension of MELVILLE C. BASS from office;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, Governor of the State of Florida, pursuant to the Constitution and the Laws of Florida, do hereby find, determine, and for the purposes of Section 112.41, Florida Statutes, allege and specify:

A. That MELVILLE C. BASS is, and at all times material hereto, was a "county officer" within the meaning of Article IV, Section 7, Florida Constitution, 1968, to wit: Member, Board of County Commissioners, Highlands County, Florida.

B. That as duly constituted public meetings of a county commission provide the principal, if not exclusive, authorized forum for the discharge of the duties of members of such commission, it is incumbent upon a public officer to attend such meetings whenever possible in order to diligently perform his duties.

C. That although such public meetings provide the forum for all official acts of a county commissioner, it is also incumbent upon a public officer, who must represent and maintain contact with his constituents on a daily basis, to avoid the appearance of substantial impropriety in his public and personal conduct at all times.

D. That a public officer, such as a member of the board of county commissioners of a county, has a duty to refrain from conduct which is unlawful or illegal and the probable consequences of which may result in incarceration and thus the substantial impairment of the officer's ability to perform his official duties.

E. That on or about May 27, 1973, in Highlands County, Florida, MELVILLE C. BASS did drive or operate a motor vehicle while under the influence of alcoholic beverages, in violation of the standards set forth in paragraphs "C" and "D" hereof, and in such a manner as to materially affect the performance of his official duties.

F. That on or about August 6, 1973, in Highlands County, Florida, MELVILLE C. BASS did drive or operate a motor vehicle while under the influence of alcoholic beverages, in violation of the standards set forth in paragraphs "C" and "D" hereof, and in such a manner as to materially affect the performance of his official duties.

G. That on or about August 26, 1973, in Highlands County, Florida, MELVILLE C. BASS did drive or operate a motor vehicle while under the influence of alcoholic beverages, in further violation of the standards set forth in paragraphs "C" and "D" hereof, and in such a manner as to grossly jeopardize the performance of his official duties.

H. That during his term of office, in Highlands County, Florida, as the result of a severe and chronic condition of alcoholism, MELVILLE C. BASS did fail, neglect or refuse to attend 19 of 45 meetings duly called and properly held by the Board of County Commissioners of Highlands County, Florida, in violation of the standard set forth in paragraph "B" hereof.

I. That during his term of office, in Highlands County, Florida, as the result of a severe and chronic condition of alcoholism, or for other reasons without justification or excuse, MELVILLE C. BASS did fail, refuse, or neglect to represent the legitimate interests of residents of his district at meetings of the Board of County Commissioners of Highlands County, by failing to contribute thereto by material discussion, debate, or other means, aside from mere attendance and voting.

J. That the aforesaid acts constitute the offenses of malfeasance, misfeasance, neglect of duty, drunkenness, or incompetence as such offenses are used in Article IV, Section 7(a), Florida Constitution (1968).

K. That the interest of the residents of Highlands County, Florida, and the citizens of the State of Florida can best be served by the continued suspension of MELVILLE C. BASS from public office.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and Laws of Florida, the following Executive Order is hereby promulgated, effective immediately.

Section 1.

That the suspension of MELVILLE C. BASS from public office, to wit: Member, Board of County Commissioners, High-

lands County, Florida, be continued in full force and effect without interruption.

Section 2.

That the grounds for suspension from office recited in Paragraphs "A" to "I" of Executive Order No. 73-55 are amended by substituting therefor Paragraphs "A" to "K" of this Order.

Section 3.

That MELVILLE C. BASS be, and he is hereby continually prohibited from performing any official act, duty or function of any public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which shall remain in effect from the effective date of Executive Order 73-55, until further Executive Order, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 7th day of November A.D. 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Mr. William E. (Bill) Davis
c/o Joe J. Harrell, Esquire
Attorney for Davis
Post Office Box 1826
Pensacola, Florida

November 2, 1973

Dear Mr. Davis:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Amended Executive Order of Suspension dated November 1, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-64

AMENDED EXECUTIVE ORDER OF SUSPENSION

WHEREAS, WILLIAM E. (BILL) DAVIS was suspended from public office by Executive Order of the Honorable CLAUDE R. KIRK, JR., Governor of Florida, on August 14, 1970, which Order was duly filed on that date with the Department of State, and

WHEREAS, the Honorable DONALD G. NICHOLS, State Attorney of the Fourth Judicial Circuit of Florida, has previously been assigned to present all known facts relating to said suspension in proceedings conducted by The Florida Senate, and

WHEREAS, supplemental investigations by the said Assigned State Attorney have disclosed certain additional acts of misconduct and malpractice in office, as set forth below, and

WHEREAS, the Assigned State Attorney has recommended that the original Executive Order of Suspension be amended to reflect all presently known grounds for suspension according to the form set forth below, and

WHEREAS, it is incumbent upon the Governor to make known to The Florida Senate and to the suspended officer all charges or evidence which is known or which reasonably should be known to the Governor at the time when the charges are presented to The Florida Senate. (See General Report of the Select Committee on Executive Suspensions of the Florida Senate, *Journal of the Senate*, February 17, 1969, pp. 6 *et seq.*, as applied in the Matter of In Re: Suspension of GEORGE A. KELSEY, *Journal of the Senate*, Special Session, February 17, 1969, at page 8);

NOW, THEREFORE, I, REUBIN O'D. ASKEW, Governor of the State of Florida, pursuant to the Constitution and the laws of the State of Florida, do hereby find, determine and, for the purpose of Section 112.41, Florida Statutes, allege and specify:

(1) That WILLIAM E. (BILL) DAVIS, was, prior to his suspension as aforesaid, the duly elected, commissioned and acting Sheriff of Escambia County, Florida.

(2) That WILLIAM E. (BILL) DAVIS was at all times material hereto a "county officer" within the meaning of Section 7, Article IV, Florida Constitution, 1968, to-wit: Sheriff, Escambia County, Florida.

(3) That on or about December 23, 1968, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS, did play or participate in a game of chance, to-wit: a dice game, for money or other thing of value.

(4) That on or about December 23, 1968, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS, did fail, refuse, or neglect his duty to enforce the laws of the State of Florida, in that he was present at a Christmas party, or social gathering for employees of Carroll Construction Company where one or more games of chance were unlawfully conducted or played for money or something of value, and he knew or with the exercise of reasonable diligence should have known that such unlawful games were being played or conducted on the premises and in his presence, yet he failed, refused, or neglected to take appropriate action to arrest the law violators or to otherwise enjoin the obvious or apparent violation of the Florida law relating to illegal gambling.

(5) That on or about December 23, 1969, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS, did play or participate in a game of chance, to-wit: a dice game, for money or other thing of value.

(6) That on or about December 23, 1969, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS, did fail, refuse, or neglect his duty to enforce the laws of the State of Florida, in that he was present at a Christmas party, or social gathering for employees of Carroll Construction Company where one or more games of chance were unlawfully conducted or played for money or something of value, and he knew or with the exercise of reasonable diligence should have known that such unlawful games were being played or conducted, on the premises and in his presence, yet he failed, refused, or neglected to take appropriate action to arrest the law violators, or to otherwise enjoin the obvious or apparent violation of the Florida law relating to illegal gambling.

(7) That on or about December 30, 1969, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did break and enter the dwelling house of MICHAEL CHARLES IANNONE, a Deputy Sheriff under his supervision, and KAREN YVONNE IANNONE, his wife, located at Route 8, Box 287-H, Pensacola, Florida, with intent to carry out an immoral purpose, to-wit: the seduction of the said KAREN YVONNE IANNONE, a married woman, to the poor example of officers under his command and to the extreme detriment of morale of the officers and employees of the Escambia County Sheriff's Department.

(8) That on or about June 1, 1966, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did convert to his own use, certain property or effects belonging to or in the possession of an agency of the State of Florida, or the County of Escambia, Florida, or of another, to-wit: a quantity of beer.

(9) That during his term or terms of office, on divers occasions in Escambia County, Florida, WILLIAM E. (BILL) DAVIS, while acting as Sheriff of said County, did present himself in public in an intoxicated and disorderly condition.

(10) That during his term or terms of office, WILLIAM E. (BILL) DAVIS instructed employees to wrongfully remove a quantity of firearms from the custody of the Escambia County Sheriff's Office to his private property at Pine Forest Road, Escambia County, Florida.

(11) That during the period from June 1, 1968, through August 14, 1970, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did fail, refuse or neglect to maintain adequate official records and accounts, including property and evidence inventory, as head of a public law enforcement agency, to-wit: Escambia County Sheriff's Department.

(12) That during his term or terms of office, WILLIAM E. (BILL) DAVIS did abuse his official position as Sheriff of

Escambia County, Florida, by threatening to place a restaurant in Escambia County, Florida, "off limits" to his employees because of the refusal of said restaurant or its proprietor to furnish him free accommodations.

(13) That during his term or terms of office, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did improperly exercise his official position to force, coerce or improperly influence certain of his employees to perform labor or services upon his (Davis') private property without compensation, to-wit: on or at a private premise known as "Camp Six," a western style lodge under construction on the property of WILLIAM E. (BILL) DAVIS located on Pine Forest Road in Escambia County, Florida. Employees who participated received favorable treatment from the Sheriff and employees who refused were penalized.

(14) That during his term or terms of office, in his official capacity as Sheriff and sponsor of summer trips made by members of the Escambia County School Safety Patrol, WILLIAM E. (BILL) DAVIS did conduct himself in a manner unbecoming a law enforcement officer, to-wit: by "french kissing" and otherwise conducting himself improperly toward or with minor female children; by furnishing or offering alcoholic beverages to minors; by appearing before minors of the opposite sex, himself improperly clothed in a lewd and indecent manner; and by taking improper advantage of female chaperones leading to sexual liberties.

(15) That on or about July 8, 1968, in Leon County, Florida, WILLIAM E. (BILL) DAVIS did make improper advances upon the person of one BEVERLY WATSON, (Davis) a female student, age 13, while supervising, in his official capacity as Sheriff, a School Safety Patrol trip.

(16) That on or about July 8, 1968, WILLIAM E. (BILL) DAVIS did make improper advances upon the person of one WANDA JEAN SAPP, (Mathis), a minor, then an unmarried female chaperone, while supervising in his official capacity as Sheriff, a School Safety Patrol trip.

(17) That on or about July 9, 1969, in Marion County, Florida, WILLIAM E. (BILL) DAVIS did handle, fondle or make improper sexual advances upon the person of RACHAEL ANDREWS HOWELL (Wyrosdick), a female chaperone, while supervising in his official capacity as Sheriff, a Junior Deputy trip.

(18) That during his term or terms of office, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did unlawfully convert and appropriate to his own private use, funds contributed by parents of children participating in School Safety Patrol trips for the purpose of defraying expenses of such trips as to food and lodging of the children.

(19) That during the term or terms of office, in Escambia County, Florida, of WILLIAM E. (BILL) DAVIS, certain members of his family and others not employed by the Office of Sheriff of the County of Escambia in any official capacity, with the knowledge, consent, or direction of WILLIAM E. (BILL) DAVIS did use, steal, take or carry away gasoline belonging to or in the possession of an agency of the State of Florida or the County of Escambia, Florida, in their own personal vehicles, for other than official or authorized purposes.

(20) That on divers dates during his term or terms of office, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did solicit, request and receive under color of his office, liquor and other items of value from certain liquor dealers or retail licensees, night-club operators, and/or bottle-club owners.

(21) That on divers dates during his term or terms of office, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did under color of law solicit, encourage, order or direct JERRY DASINGER, a Deputy Sheriff under his supervision and control, to locate and wrongfully and without probable cause to arrest one CARL HARPER, Escambia County Solicitor, for the offense of driving while intoxicated or any similar offense, for extortionate purposes in order to exert pressure upon the said CARL HARPER, and thereby to cause him to cease diligent investigation and prosecution of various criminal charges.

(22) That on divers dates during his term or terms of office, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did under color of law solicit, encourage, order or direct, JERRY DASINGER, a Deputy Sheriff under his supervision and control, to locate and arrest one BEN TURNER, for extortionate purposes in order to exert pressure or influence upon said BEN TURNER to cause him to supply lumber and materials for the

construction of "Camp Six" a western-style lodge being constructed on private property of WILLIAM E. (BILL) DAVIS.

(23) That during or about March or April, 1971, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS, while under suspension from public office, yet before any final action by The Florida Senate, did unlawfully or improperly solicit or attempt to interfere with or influence certain members of the jury venire who were subject to being called in Escambia County Court of Record Case No. 70-1547, thereby evidencing his contempt for law and due process.

(24) That during his term or terms of office, in Escambia County, Florida, WILLIAM E. (BILL) DAVIS did wilfully fail, refuse or neglect to perform his official duty by absenting himself without official leave from the State of Florida on divers occasions for divers periods of time without notifying the next ranking officer of the Escambia County Sheriff's Department, and without proper notification to the Governor of Florida as required by law.

(25) That during his term or terms of office, WILLIAM E. (BILL) DAVIS, having knowledge of a crime which had been committed on at least two occasions by JIMMY ROGERS, one of his employees, did fail to arrest said JIMMY ROGERS or to take other action against said employee consistent with the law.

(26) That during his term or terms of office, WILLIAM E. (BILL) DAVIS, did unlawfully have sex relations with one KAREN YVONNE IANNONE, the wife of a Deputy Sheriff who was employed by WILLIAM E. (BILL) DAVIS, and that said KAREN YVONNE IANNONE at the time of the initial intercourse was 16 years of age.

(27) That during his term or terms of office, WILLIAM E. (BILL) DAVIS did use profane, vulgar and indecent language in public places and upon the private premises of another or so near thereto as to be heard by other persons, said conduct not becoming of an individual in his capacity as Sheriff of Escambia County.

(28) That during his term or terms of office, WILLIAM E. (BILL) DAVIS directly or indirectly solicited political contributions in exchange for ceasing certain harassment activities by employees under his supervision and control.

(29) That during his term or terms of office, WILLIAM E. (BILL) DAVIS did order and direct one RONALD MCNESBY, an employee under his supervision and control, to wrongfully alter or change a criminal charge lawfully made by said RONALD MCNESBY and that as a result of altering the lawful criminal charge said RONALD MCNESBY subsequently was criminally indicted, all to the poor example of the officers under his command and to the extreme detriment of morale of the officers and employees of the Escambia County Sheriff's Department.

(30) That during his term or terms of office, WILLIAM E. (BILL) DAVIS on divers occasions as Sheriff of Escambia County did wrongfully destroy, dismiss, alter or change criminal charges lawfully made by his employees or did order and direct his employees to wrongfully destroy, dismiss, alter or change the lawfully made criminal charges, all to the poor example of the officers under his command and to the extreme detriment of morale of the officers and employees of the Escambia County Sheriff's Department.

(31) That during his term or terms of office, WILLIAM E. (BILL) DAVIS, being lawfully married, did have unlawful sex relations with persons other than his wife to include the solicitation, inducement, enticement, or procurement of another to commit prostitution, lewdness, or assignation with himself as such terms are defined in Florida Statute 796.07.

(32) That during his term or terms of office WILLIAM E. (BILL) DAVIS became the natural father of certain children outside his marriage and that said fact indicates conduct inconsistent with that expected of an individual holding public office as Sheriff of Escambia County.

(33) That during his term or terms of office, WILLIAM E. (BILL) DAVIS, directly or indirectly did wrongfully authorize or permit the distribution of the property of Escambia County to individuals for their personal use, contrary to good law enforcement in Escambia County, Florida, and to the poor example of the officers under his command and to the extreme detriment of morale of the officers and employees of the Escambia County Sheriff's Department.

(34) That as a result of investigation by specially assigned prosecutors WILLIAM D. HOPKINS, commencing on January 8, 1970, and MARVIN U. MOUNTS, JR., commencing on October 8, 1970, and of investigation by the Grand Jury of Escambia County, Florida, the Grand Jury filed their Presentment of August 13, 1970, setting forth their finding that WILLIAM E. (BILL) DAVIS was guilty of malfeasance, misfeasance, nonfeasance, neglect of duty and incompetence while acting as Sheriff and setting forth certain examples of misconduct; a true copy of which Presentment is attached hereto and incorporated herein. As a result of such investigation, criminal indictments were returned against WILLIAM E. (BILL) DAVIS in Escambia County Court of Record Cases 70-1484, 70-1485, 70-1547, 70-1548 and 70-1549, such cases being ultimately disposed of by the filing of a written Nolle Prosequi on July 12, 1973, after litigation and in light of circumstances more particularly described in said Nolle Prosequi which included a conviction at the trial level of a charge of indirect criminal contempt related to alleged jury tampering, which conviction was ultimately reversed by an appellate court; and that a true copy of the said indictments and written Nolle Prosequi are incorporated herein and attached hereto.

(35) That the aforesaid acts or conduct of the said WILLIAM E. (BILL) DAVIS constitute the offenses of malfeasance, misfeasance, neglect of duty, drunkenness, or incompetence as such offenses are used in Section 7(a) of Article IV, Florida Constitution, 1968.

(36) That the interest of the residents of Escambia County, Florida, and the citizens of the State of Florida are best served by the continued suspension of WILLIAM E. (BILL) DAVIS from public office.

BEING FULLY ADVISED IN THE PREMISES, and in accordance with the Constitution and Laws of the State of Florida, the following Executive Order is hereby promulgated, effective at 5:00 o'clock p.m. on November 1, 1973.

Section 1.

That the suspension of WILLIAM E. (BILL) DAVIS from public office, to-wit: Sheriff, Escambia County, Florida, be continued in full force and effect without interruption.

Section 2.

That the grounds for suspension from office recited in the Executive Order of the Honorable CLAUDE R. KIRK, JR., then Governor of Florida, dated August 14, 1970, is amended by adding thereto paragraphs (1) to (36) of this Order.

Section 3.

That WILLIAM E. (BILL) DAVIS be, and he is hereby continually prohibited from performing any official act, duty or function of any public office, from receiving any pay or allowance, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall remain in effect from the effective date of the previous Executive Order of Suspension dated August 14, 1970, until further Executive Order, or as provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 1st day of November A.D. 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

[Executive Order of Suspension effective August 14, 1970 appears on pages 7—8, Senate Journal, October 9, 1970.]

Mr. Jim H. Howell
Post Office Box 472
Milton, Florida 32570

September 11, 1973

Dear Mr. Howell:

Pursuant to the provisions of Chapter 69-277, Laws of Flor-

ida, we are sending you by registered mail, Executive Order of Suspension dated September 11, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-54

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, JIM HOWELL is presently serving as a member of the Board of County Commissioners of Santa Rosa County, and

WHEREAS, it has been alleged by citizens of Santa Rosa County that the said JIM HOWELL has violated the duties and public trust of his public office, and

WHEREAS, pursuant to the Constitution and laws of the State of Florida, an investigation has been made of the charges against the said JIM HOWELL, and

WHEREAS, on September 5, 1973, the said JIM HOWELL was indicted by the Grand Jury of Santa Rosa County, Florida;

NOW THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and Laws of the State of Florida, do hereby find, determine, and allege as follows:

A. That JIM HOWELL is and, at all times material hereto, was a "county officer" within the meaning of Section 7, Article IV, Florida Constitution (1968), to wit: Member, Board of County Commissioners, Santa Rosa County, Florida.

B. That on the 5th day of September, 1973, the Grand Jurors of the State of Florida, in the Circuit Court of the First Judicial Circuit in and for Santa Rosa County, Florida returned a true bill against, and did thus indict JIM HOWELL for a violation of Section 838.02, Florida Statutes, to wit: That he did corruptly and unlawfully request or solicit a gift of money under an agreement or with an understanding with J. B. (JIM) PITTMAN, that his vote, opinion, or judgment should be given in any particular manner or upon a particular side of any question, cause or proceeding which was by law brought before him in his official capacity.

C. That the aforesaid facts constitute the offense of malfeasance, misfeasance, neglect of duty, commission of a felony or incompetence as such offenses are used in Section 7(a), Article IV, Florida Constitution.

D. That the interest of the residents of Santa Rosa County, Florida, and the citizens of the State of Florida can best be served by the immediate suspension of JIM HOWELL from the public office which he now holds.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and laws of the State of Florida, the following Executive Order is hereby promulgated, effective at 5:00 p.m. (EDT), Tuesday, September 11th, 1973.

1. JIM HOWELL is hereby suspended as and from the public office which he now holds, to wit: Member, Board of County Commissioners, Santa Rosa County, Florida.

2 That JIM HOWELL is hereby prohibited from performing any official act, duty or function of public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until further executive order, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 11th day of September A.D. 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Honorable Jim H. Howell
Post Office Box 472
Milton, Florida 32570

November 26, 1973

Dear Mr. Howell:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Reinstatement dated November 26, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-75

EXECUTIVE ORDER OF REINSTATEMENT

WHEREAS, JAMES HUGH (JIM) HOWELL was suspended as Member, Board of County Commissioners, Santa Rosa County, Florida, pursuant to Executive Order of the Governor Number 73-54, dated September 11, 1973, and

WHEREAS, prosecution was had on the charges contained in the Indictment on which the aforesaid suspension was based, and

WHEREAS, I have been advised by the Honorable CURTIS A. GOLDEN, State Attorney of the First Judicial Circuit of Florida, that said JAMES HUGH (JIM) HOWELL was acquitted of all criminal charges on November 20, 1973;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor of the State of Florida, by the power vested in me by the Constitution and laws of Florida, do hereby promulgate the following Executive Order, effective immediately:

1. That JAMES HUGH (JIM) HOWELL be, and he is hereby, reinstated to the public office which he held at the time of the above-mentioned suspension, to-wit: Member, Board of County Commissioners, Santa Rosa County, Florida.

2. That Executive Order of the Governor Number 73-54 is hereby revoked and the suspension of JAMES HUGH (JIM) HOWELL is terminated, pursuant to Section 7(a) of Article IV, Florida Constitution, 1968.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 26th day of November, A.D. 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Mr. Jimmy Josey
Route 3
Bonifay, Florida

June 22, 1973

Dear Mr. Josey:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated June 21, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-32

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, JIMMY JOSEY is a member of the Board of County Commissioners of Holmes County, Florida, and

WHEREAS, a grand jury of Holmes County, after due investigation and deliberations during the period from March 22, 1973, through April 3, 1973, has filed two Presentments (dated April 11, 1973, and May 9, 1973, respectively) finding, in the second Presentment, that the said JIMMY JOSEY has violated the duties and public trust of his county office, and requesting the Governor to suspend JIMMY JOSEY from said office, and

WHEREAS, after thorough investigation and after review of the investigation, grand jury findings and testimony relating thereto, it appears that there is substantial evidence of misconduct in office on the part of JIMMY JOSEY, such that it is in the best interest of the residents of Holmes County and the citizens of the State of Florida that said JIMMY JOSEY be suspended from the public office he now holds;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and laws of the State of Florida, do hereby find, determine, and allege as follows:

A. That JIMMY JOSEY is, and at all times material hereto, was a "county officer" within the meaning of Section 7, Article IV, Florida Constitution (1968), to-wit: Member, Board of County Commissioners, Holmes County, Florida.

B. That on or about November 21, 1972, JIMMY JOSEY did participate in and take official action at a special meeting of the Board of County Commissioners called and held without proper or adequate notice to the public or to a member of the Commission of the time, place, and matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant the holding of such a special meeting on such conditions.

C. That on or about November 21, 1972, JIMMY JOSEY did vote and take official action at the meeting of the Board of County Commissioners described in paragraph "B" to rescind all action taken by the previous Board of County Commissioners relating to the purchase of new road graders, notwithstanding the advice of the county attorney that said road graders were purchased by the prior commission pursuant to a legal and binding contract, and to delete certain items from the county road program.

D. That on or about December 12, 1972, JIMMY JOSEY did participate in and take official action at a special meeting of the Board of County Commissioners called and held without proper or adequate notice to the public of the time, place or matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant a special meeting on such conditions.

E. That on or about December 29, 1972, JIMMY JOSEY did participate in and take official action at a special meeting of the Board of County Commissioners called and held at the "county barn," without proper notice to the public or any other parties of the time, place, or matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant a special meeting on such conditions.

F. That on or about December 4, 1972, JIMMY JOSEY did, at a regularly scheduled meeting of the Board of County Commissioners, take official action to dismiss, without lawful authority, the county attorney, Addison Drummond, an elected official, who served for a term certain as the legal advisor for the Board of County Commissioners and as the prosecuting attorney of the County Judge's Court in and for Holmes County, Florida, pursuant to Chapter 30118, Laws of Florida (1955), a Special Act of the Legislature affecting Holmes County.

G. That from the date of assuming office, November 21, 1972, until the date of the filing of the Holmes County Grand Jury's second Presentment on May 9, 1973, said JIMMY JOSEY did join with a majority of the Board of County Commissioners, viz., JAMES H. KING and TAMPHUS MESSER in practices and policies of refusing to cooperate with other officers and agencies of local government to the detriment of the citizens of Holmes County, including but not limited to the following acts and omissions, to-wit:

1. Refusal on repeated occasions to sign bonds for deputies of the Sheriff's Office.

2. Refusal to consider reasonable requests for budget adjustments of the Sheriff's Office made necessary by the overex-

penditure of funds by the previous Sheriff, and the need to comply with recent judicial mandates which required additional personnel to handle female prisoners.

3. Refusal to fund the Office of the Clerk of the Circuit Court for additional responsibilities imposed upon that office by implementation of Article V of the Florida Constitution.

4. Refusal to take necessary action to allow the county roads to be properly maintained subsequent to the action rescinding the purchase of the road graders described above.

5. Refusal to cooperate with other agencies of government including the Office of the Clerk of the Circuit Court, Jack Faircloth, the Office of the Tax Assessor, Robert Slay, the Office of the Sheriff, Wilburn Raley, the Holmes County Hospital, the Northwest Regional Library, the Regional Juvenile Detention Center, or to establish and maintain essential communication with any governmental agency affecting the health, welfare and good government of Holmes County.

H. That as a result of the above acts and omissions, as well as other actions taken by the Board of County Commissioners, which although detrimental to the public welfare were within their lawful discretion, the grand jury of Holmes County did file a Presentment on April 11, 1973, which is attached hereto and incorporated herein, reporting the existing condition of general government, roads, sheriff's department, ambulance service, public meetings, and the failure of cooperation between governmental agencies in Holmes County, and did declare that an emergency existed in the government of Holmes County which should and must be immediately corrected, finding "that for all practical purposes, effective, productive government in Holmes County has ceased."

I. That after again hearing witnesses on May 8, 1973, the grand jury of Holmes County did file an additional Presentment on May 9, 1973, which is also attached hereto and incorporated herein, reaffirming its Presentment of April 11, 1973, and finding "that the cause or causes for the emergency which now exists in Holmes County lies with the fact that County Commissioners JIMMY JOSEY, JAMES H. KING and TAMPHUS MESSER are guilty of misfeasance in the conduct of their office to such an extent that government has ceased to exist in Holmes County," and requesting the Governor of Florida to remove said county commissioners from office.

J. That the aforesaid facts constitute the offense of malfeasance, misfeasance, neglect of duty, and incompetence as such offenses are used in Section 7(a), of Article IV, Florida Constitution, 1968 Revision, and the aforesaid commissioner is guilty of such offenses.

K. That the interests of the residents of Holmes County, Florida, and the citizens of the State of Florida are best served by the suspension of JIMMY JOSEY from public office.

BEING FULLY ADVISED IN THE PREMISES, and in accordance with the Constitution and laws of the State of Florida, the following Executive Order is hereby promulgated, effective at five o'clock p.m. on June 21, 1973.

1. That JIMMY JOSEY be, and he is hereby suspended from the county office which he now holds, to-wit: Member, Board of County Commissioners, Holmes County, Florida.

2. That the said JIMMY JOSEY is prohibited from performing any official act, duty or function of his public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of any public office during the period of this suspension, which period shall be from the date and time indicated above, until further executive order, or as provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 21st day of June, 1973.

REUBIN O'D. ASKEW
Governor

Attest:
RICHARD (DICK) STONE
Secretary of State

Honorable David T. Kennedy
8510 Northeast Tenth Avenue
Miami, Florida

June 19, 1973

Dear Mr. Kennedy:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated June 18, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-29

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, the Honorable DAVID KENNEDY is a member of the Inter-American Center Authority (Interama), Dade County, Florida, and

WHEREAS, it has been alleged by citizens of Dade County that the said DAVID KENNEDY has violated the duties and public trust of his municipal office; to wit, Mayor of the City of Miami, Florida, and

WHEREAS, pursuant to the Constitution and laws of the State of Florida, an investigation has been made of the charges against the said DAVID KENNEDY, and

WHEREAS, on April 6, 1973, the said DAVID KENNEDY was indicted by a grand jury of the State of Florida, and

WHEREAS, the said DAVID KENNEDY was, at his request, suspended by Executive Order No. 73-17 from the municipal public office which he then held, and

WHEREAS, the said DAVID KENNEDY has also requested that he be suspended from the state public office which he now holds; to-wit, Member, Inter-American Center Authority (Interama), in view of the pendency of the criminal charges made against him;

NOW THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and Laws of the State of Florida, do hereby find, determine, and allege as follows:

A. That DAVID KENNEDY is and, at all times material hereto, was a "state officer" within the meaning of Section 7, Article IV, Florida Constitution (1968), to wit: Member, Inter-American Center Authority (Interama), Dade County, Florida.

B. That DAVID KENNEDY, together with MINA DAVIDSON and FRANK MARTIN, did in Dade County, Florida, on August 14, 1972, and continuing until and including October 13, 1972, agree, conspire, combine or confederate with each other to give, offer or promise to JACK M. TURNER, a judicial officer, to-wit: a judge of the Criminal Court of Record in and for Dade County, Florida, a gift or gratuity or other thing of value with the intent that said gift or gratuity would influence the decision or judgment of the said JACK M. TURNER in the cause of the State of Florida vs. Carlos Pinto, a cause which was then pending or which might have been brought before the said JACK M. TURNER in his official capacity.

C. That DAVID KENNEDY, together with MINA DAVIDSON, FRANK MARTIN, and JACK M. TURNER did, in Dade County, Florida, on August 14, 1972, and continuing until and including October 13, 1972, agree, conspire, combine or confederate with each other to give, offer, or promise to ELLEN MORPHONIOS ROWE, a judicial officer, to-wit: a judge of the Criminal Court of Record in and for Dade County, Florida, a gift or gratuity or other thing of value with the intent that said gift or gratuity would influence the decision or judgment of the said ELLEN MORPHONIOS ROWE in the cause of the State of Florida vs. Carlos Pinto, a cause which might have been brought before the said ELLEN MORPHONIOS ROWE in her official capacity.

D. That the aforesaid facts constitute the offense of malfeasance, misfeasance, neglect of duty or commission of a

felony as such offenses are used in Section 7(a) of Article IV, Florida Constitution, 1968 Revision.

E. That, pursuant to his own request, and on the basis of the foregoing findings and allegations, it is in the best interest of the citizens of the State of Florida and the Inter-American Center Authority (Interama) that the said DAVID KENNEDY be immediately suspended from the state office he now holds.

Being fully advised in the premises and in accordance with Section 7 of Article IV, Florida Constitution (1968), and the Laws of the State of Florida, this Executive Order is hereby promulgated, effective at 5:00 p.m. on the 19th day of June A. D. 1973.

1. That the Honorable DAVID KENNEDY be, and he is hereby, suspended from the state office which he now holds, to wit: Member, Inter-American Center Authority (Interama), Dade County, Florida.

2. That the said DAVID KENNEDY be, and he is hereby prohibited from performing any official act, duty, or function of his state office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of any public office during the period of this suspension, which period shall be from the effective date hereof until further executive order or as provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused The Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 18th day of June, 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Honorable David T. Kennedy
8510 Northeast Tenth Avenue
Miami, Florida

August 16, 1973

Dear Mr. Kennedy:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Reinstatement dated August 16, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-44

EXECUTIVE ORDER OF REINSTATEMENT

WHEREAS, the Honorable David Kennedy was suspended as Mayor of the City of Miami, Florida, pursuant to Executive Order of the Governor Number 73-17, dated April 19, 1973, and

WHEREAS, the Honorable David Kennedy was suspended as Member, Inter-American Center Authority (Interama), Dade County, Florida, pursuant to Executive Order of the Governor Number 73-29, dated June 18, 1973, and

WHEREAS, prosecution was had on the charges contained in the Indictment on which the aforesaid Suspensions were based, and

WHEREAS, on August 15, 1973, the Office of the Governor was advised that the said David Kennedy had been cleared of the charges contained in the Indictment;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor of the State of Florida, by the power vested in me by the Constitution and laws of Florida, do hereby promulgate the following Executive Order, effective at 5:00 p.m. on August 16th, 1973:

1. That the Honorable David Kennedy be, and he is hereby, reinstated to the public offices which he held at the time of the above-mentioned suspensions, to-wit: Mayor, City of Miami, Florida, and Member, Inter-American Center Authority (Interama), Dade County, Florida.

2. That Executive Orders of Suspension dated April 19, 1973, and June 18, 1973, are revoked and the suspensions of the Honorable David Kennedy are removed, pursuant to §166.16(5) Florida Statutes and Section 7 of Article IV, Florida Constitution.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 16th day of August, 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Mr. James H. King
Route 3
Bonifay, Florida 32425

June 22, 1973

Dear Mr. King:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated June 21, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-33

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, JAMES H. KING is a member of the Board of County Commissioners of Holmes County, Florida, and

WHEREAS, a grand jury of Holmes County, after due investigation and deliberations during the period from March 22, 1973, through April 3, 1973, has filed two Presentments (dated April 11, 1973, and May 9, 1973, respectively) finding, in the second Presentment, that the said JAMES H. KING has violated the duties and public trust of his county office, and requesting the Governor to suspend JAMES H. KING from said office, and

WHEREAS, after thorough investigation and after review of the investigation, grand jury findings and testimony relating thereto, it appears that there is substantial evidence of misconduct in office on the part of JAMES H. KING, such that it is in the best interest of the residents of Holmes County and the citizens of the State of Florida that said JAMES H. KING be suspended from the public office he now holds;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and laws of the State of Florida, do hereby find, determine, and allege as follows:

A. That JAMES H. KING is, and at all times material hereto, was a "county officer" within the meaning of Section 7, Article IV, Florida Constitution (1968), to-wit: Member, Board of County Commissioners, Holmes County, Florida.

B. That on or about November 21, 1972, JAMES H. KING did participate in and take official action at a special meeting of the Board of County Commissioners called and held without proper or adequate notice to the public or to a member of the Commission of the time, place, and matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant the holding of such a special meeting on such conditions.

C. That on or about November 21, 1972, JAMES H. KING did vote and take official action at the meeting of the Board of County Commissioners described in paragraph "B" to rescind all action taken by the previous Board of County Commissioners relating to the purchase of new road graders, notwithstanding the advice of the county attorney that said road graders were purchased by the prior commission pursuant to a legal and binding contract, and to delete certain items from the county road program.

D. That on or about December 12, 1972, JAMES H. KING did participate in and take official action at a special meeting of the Board of County Commissioners called and held without proper or adequate notice to the public of the time, place or matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant a special meeting on such conditions.

E. That on or about December 29, 1972, JAMES H. KING did participate in and take official action at a special meeting of the Board of County Commissioners called and held at the "county barn," without proper notice to the public or any other parties of the time, place, or matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant a special meeting on such conditions.

F. That on or about December 4, 1972, JAMES H. KING did, at a regularly scheduled meeting of the Board of County Commissioners, take official action to dismiss, without lawful authority, the county attorney, Addison Drummond, an elected official, who served for a term certain as the legal advisor for the Board of County Commissioners and as the prosecuting attorney of the County Judge's Court in and for Holmes County, Florida, pursuant to Chapter 30118, Laws of Florida (1955), a Special Act of the Legislature affecting Holmes County.

G. That from the date of assuming office, November 21, 1972, until the date of the filing of the Holmes County Grand Jury's second Presentment on May 9, 1973, said JAMES H. KING did join with a majority of the Board of County Commissioners, viz., JIMMY JOSEY and TAMPHUS MESSER in practices and policies of refusing to cooperate with other officers and agencies of local government to the detriment of the citizens of Holmes County, including but not limited to the following acts and omissions, to-wit:

1. Refusal on repeated occasions to sign bonds for deputies of the Sheriff's Office.

2. Refusal to consider reasonable requests for budget adjustments of the Sheriff's Office made necessary by the over-expenditure of funds by the previous Sheriff, and the need to comply with recent judicial mandates which required additional personnel to handle female prisoners.

3. Refusal to fund the Office of the Clerk of the Circuit Court for additional responsibilities imposed upon that office by implementation of Article V of the Florida Constitution.

4. Refusal to take necessary action to allow the county roads to be properly maintained subsequent to the action rescinding the purchase of the road graders described above.

5. Refusal to cooperate with other agencies of government including the Office of the Clerk of the Circuit Court, Jack Faircloth, the Office of the Tax Assessor, Robert Slay, the Office of the Sheriff, Wilburn Raley, the Holmes County Hospital, the Northwest Regional Library, the Regional Juvenile Detention Center, or to establish and maintain essential communication with any governmental agency affecting the health, welfare and good government of Holmes County.

H. That as a result of the above acts and omissions, as well as other actions taken by the Board of County Commissioners, which although detrimental to the public welfare were within their lawful discretion, the grand jury of Holmes County did file a Presentment on April 11, 1973, which is attached hereto and incorporated herein, reporting the existing condition of general government, roads, sheriff's department, ambulance service, public meetings, and the failure of cooperation between governmental agencies in Holmes County, and did declare that an emergency existed in the government of Holmes County which should and must be immediately corrected, finding "that for all practical purposes, effective, productive government in Holmes County has ceased."

I. That after again hearing witnesses on May 8, 1973, the grand jury of Holmes County did file an additional Presentment on May 9, 1973, which is also attached hereto and incorporated herein, reaffirming its Presentment of April 11, 1973, and find-

ing "that the cause or causes for the emergency which now exists in Holmes County lies with the fact that County Commissioners JIMMY JOSEY, JAMES H. KING and TAMPHUS MESSER are guilty of misfeasance in the conduct of their office to such an extent that government has ceased to exist in Holmes County," and requesting the Governor of Florida to remove said county commissioners from office.

J. That the aforesaid facts constitute the offense of malfeasance, misfeasance, neglect of duty, and incompetence as such offenses are used in Section 7(a), of Article IV, Florida Constitution, 1968 Revision, and the aforesaid commissioner is guilty of such offenses.

K. That the interests of the residents of Holmes County, Florida, and the citizens of the State of Florida are best served by the suspension of JAMES H. KING from public office.

BEING FULLY ADVISED IN THE PREMISES, and in accordance with the Constitution and laws of the State of Florida, the following Executive Order is hereby promulgated, effective at five o'clock p.m. on June 21, 1973.

1. That JAMES H. KING be, and he is hereby suspended from the county office which he now holds, to-wit: Member, Board of County Commissioners, Holmes County, Florida.

2. That the said JAMES H. KING is prohibited from performing any official act, duty or function of his public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of any public office during the period of this suspension, which period shall be from the date and time indicated above, until further executive order, or as provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 21st day of June, 1973.

REUBIN O'D. ASKEW
Governor

Attest:
RICHARD (DICK) STONE
Secretary of State

Mr. Tamphus Messer
Route 2
Bonifay, Florida

June 22, 1973

Dear Mr. Messer:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated June 21, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-34

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, TAMPHUS MESSER is a member of the Board of County Commissioners of Holmes County, Florida, and

WHEREAS, a grand jury of Holmes County, after due investigation and deliberations during the period from March 22, 1973, through April 3, 1973, has filed two Presentments (dated April 11, 1973, and May 9, 1973, respectively) finding, in the second Presentment, that the said TAMPHUS MESSER has violated the duties and public trust of his county office, and requesting the Governor to suspend TAMPHUS MESSER from said office, and

WHEREAS, after thorough investigation and after review of the investigation, grand jury findings and testimony relating thereto, it appears that there is substantial evidence of misconduct in office on the part of TAMPHUS MESSER, such that it is in the best interest of the residents of Holmes County and the citizens of the State of Florida that said TAMPHUS MESSER be suspended from the public office he now holds;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and laws of the State of Florida, do hereby find, determine, and allege as follows:

A. That TAMPBUS MESSER is, and at all times material hereto, was a "county officer" within the meaning of Section 7, Article IV, Florida Constitution (1968), to-wit: Member, Board of County Commissioners, Holmes County, Florida.

B. That on or about November 21, 1972, TAMPBUS MESSER did participate in and take official action at a special meeting of the Board of County Commissioners called and held without proper or adequate notice to the public or to a member of the Commission of the time, place, and matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant the holding of such a special meeting on such conditions.

C. That on or about November 21, 1972, TAMPBUS MESSER did vote and take official action at the meeting of the Board of County Commissioners described in paragraph "B" to rescind all action taken by the previous Board of County Commissioners relating to the purchase of new road graders, notwithstanding the advice of the county attorney that said road graders were purchased by the prior commission pursuant to a legal and binding contract, and to delete certain items from the county road program.

D. That on or about December 12, 1972, TAMPBUS MESSER did participate in and take official action at a special meeting of the Board of County Commissioners called and held without proper or adequate notice to the public of the time, place or matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant a special meeting on such conditions.

E. That on or about December 29, 1972, TAMPBUS MESSER did participate in and take official action at a special meeting of the Board of County Commissioners called and held at the "county barn," without proper notice to the public or any other parties of the time, place, or matters to be considered, the said meeting being held without lawful excuse, emergency or other lawful justification which would warrant a special meeting on such conditions.

F. That on or about December 4, 1972, TAMPBUS MESSER did, at a regularly scheduled meeting of the Board of County Commissioners, take official action to dismiss, without lawful authority, the county attorney, Addison Drummond, an elected official, who served for a term certain as the legal advisor for the Board of County Commissioners and as the prosecuting attorney of the County Judge's Court in and for Holmes County, Florida, pursuant to Chapter 30118, Laws of Florida (1955), a Special Act of the Legislature affecting Holmes County.

G. That from the date of assuming office, November 21, 1972, until the date of the filing of the Holmes County Grand Jury's second Presentment on May 9, 1973, said TAMPBUS MESSER did join with a majority of the Board of County Commissioners, viz., JIMMY JOSEY and JAMES H. KING in practices and policies of refusing to cooperate with other officers and agencies of local government to the detriment of the citizens of Holmes County, including but not limited to the following acts and omissions, to-wit:

1. Refusal on repeated occasions to sign bonds for deputies of the Sheriff's Office.

2. Refusal to consider reasonable requests for budget adjustments of the Sheriff's Office made necessary by the over-expenditure of funds by the previous Sheriff, and the need to comply with recent judicial mandates which required additional personnel to handle female prisoners.

3. Refusal to fund the Office of the Clerk of the Circuit Court for additional responsibilities imposed upon that office by implementation of Article V of the Florida Constitution.

4. Refusal to take necessary action to allow the county roads to be properly maintained subsequent to the action rescinding the purchase of the road graders described above.

5. Refusal to cooperate with other agencies of government including the Office of the Clerk of the Circuit Court, Jack Faircloth, the Office of the Tax Assessor, Robert Slay, the Office of the Sheriff, Wilburn Raley, the Holmes County Hospital, the Northwest Regional Library, the Regional Juvenile Detention Center, or to establish and maintain essential communication with any governmental agency affecting the health, welfare and good government of Holmes County.

H. That as a result of the above acts and omissions, as well as other actions taken by the Board of County Commissioners,

which although detrimental to the public welfare were within their lawful discretion, the grand jury of Holmes County did file a Presentment on April 11, 1973, which is attached hereto and incorporated herein, reporting the existing condition of general government, roads, sheriff's department, ambulance service, public meetings, and the failure of cooperation between governmental agencies in Holmes County, and did declare that an emergency existed in the government of Holmes County which should and must be immediately corrected, finding "that for all practical purposes, effective, productive government in Holmes County has ceased."

I. That after again hearing witnesses on May 8, 1973, the grand jury of Holmes County did file an additional Presentment on May 9, 1973, which is also attached hereto and incorporated herein, reaffirming its Presentment of April 11, 1973, and finding "that the cause or causes for the emergency which now exists in Holmes County lies with the fact that County Commissioners JIMMY JOSEY, JAMES H. KING and TAMPBUS MESSER are guilty of misfeasance in the conduct of their office to such an extent that government has ceased to exist in Holmes County," and requesting the Governor of Florida to remove said county commissioners from office.

J. That the aforesaid facts constitute the offense of malfeasance, misfeasance, neglect of duty, and incompetence as such offenses are used in Section 7(a), of Article IV, Florida Constitution, 1968 Revision, and the aforesaid commissioner is guilty of such offenses.

K. That the interests of the residents of Holmes County, Florida, and the citizens of the State of Florida are best served by the suspension of TAMPBUS MESSER from public office.

BEING FULLY ADVISED IN THE PREMISES, and in accordance with the Constitution and laws of the State of Florida, the following Executive Order is hereby promulgated, effective at five o'clock p.m. on June 21, 1973.

1. That TAMPBUS MESSER be, and he is hereby suspended from the county office which he now holds, to-wit: Member, Board of County Commissioners, Holmes County, Florida.

2. That the said TAMPBUS MESSER is prohibited from performing any official act, duty or function of his public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of any public office during the period of this suspension, which period shall be from the date and time indicated above, until further executive order, or as provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 21st day of June, 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:
RICHARD (DICK) STONE
Secretary of State

Mr. Joe Newmans
Macclenny
Florida

February 18, 1974

Dear Mr. Newmans:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated February 15, 1974.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 74-15

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, complaints have been made by citizens of Baker County, concerning the conduct of Joe Newmans, Sheriff of Baker County, Florida, and

WHEREAS, these complaints have been investigated by state and local law enforcement and prosecutorial agencies, and

WHEREAS, based upon the reports of these agencies and the sworn testimony of witnesses, it appears that it is in the best interest of the citizens of the State of Florida and the residents of Baker County, that Joe Newmans be immediately suspended from the public office which he now holds, upon the constitutional grounds as hereinafter set forth:

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor of the State of Florida, in obedience to my constitutional duty "that the laws be faithfully executed..." and pursuant to the Constitution and laws of the State of Florida, do hereby find, determine and, for the purposes of Section 112.41, Florida Statutes, specify:

(A) That Joe Newmans was first elected as Sheriff of Baker County on or about November 7, 1972, and assumed office on or about January 2, 1973, which office he has held continuously since said later date.

(B) That Joe Newmans is, and at all times material hereto was, a "county officer" within the meaning of Section 7, Article IV, Florida Constitution, 1968 Revision, to-wit: Sheriff of Baker County, Florida.

(C) That beginning on January 22, 1974, and up to and including February 5, 1974, Joe Newmans, Sheriff of Baker County, did corruptly request, solicit or accept for himself or others the sum of Three Hundred Fifty Dollars (\$350.00) under an agreement between Joe Newmans, Archie Roberson and Thomas Howard to the effect that the money would be used to influence the act, opinion, decision, judgment or behavior of Joe Newmans as Sheriff in the case of State of Florida vs. John Howard and Joe Woodruff, Case Number 73-32, a felony case pending in the Circuit Court of Baker County, Florida.

(D) That beginning on January 22, 1974, and up to and including February 5, 1974, Joe Newmans, Sheriff of Baker County, and Archie Roberson did agree, conspire, combine or confederate to commit a felony, to-wit: Accepting A Bribe, in that they caused to be delivered to them money, with an understanding or agreement, that they would attempt to influence the decision of the Circuit Court of the Eighth Judicial Circuit in and for Baker County, in the case of the State of Florida vs. John Howard and Joe Woodruff, Case Number 73-32.

(E) That the aforesaid facts constitute malfeasance, misfeasance, neglect of duty, incompetence or commission of a felony as said terms are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

(F) That the interests of the residents of Baker County and the citizens of Florida can best be served by the immediate suspension of Joe Newmans, from the public office which he now holds, for the reason hereinabove set forth.

BEING FURTHER ADVISED in the premises and in accordance with the Constitution and laws of the State of Florida, the following Executive Order is hereby promulgated, effective at 5 o'clock p.m. on February 15, 1974.

1. That Joe Newmans be, and he hereby is suspended as and from the public office which he now holds, to-wit: Sheriff of Baker County, Florida.

2. That Joe Newmans be, and he hereby is prohibited from performing any official act, duty or function of any public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date of this order until further Executive Order or as provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 15th day of February, 1974.

REUBIN O'D. ASKEW
Governor

Attest:
RICHARD (DICK) STONE
Secretary of State

Honorable Jack Wheeler
Post Office Box 1540
Fort Lauderdale, Florida 33301

October 8, 1973

Dear Mr. Wheeler:

Pursuant to the provisions of Chapter 69-277, Laws of Florida, we are sending you by registered mail, Executive Order of Suspension dated October 8, 1973.

With kind regards, I remain

Cordially,
RICHARD (DICK) STONE
Secretary of State

By (Mrs.) Dorothy W. Glisson
Director, Division of Elections

EXECUTIVE ORDER NUMBER 73-60

EXECUTIVE ORDER OF SUSPENSION

WHEREAS, JACK WHEELER is presently serving as Comptroller of Broward County, Florida, and

WHEREAS, it has been alleged that JACK WHEELER, in a sworn statement made before the Grand Jury of Broward County, Florida, did then and there willfully testify falsely, and in so doing committed perjury, against the form of Florida Statute 837.02, a felony of the second degree, and

WHEREAS, the Grand Jury of Broward County, Florida, did on October 3, 1973, indict JACK WHEELER for perjury, a felony of the second degree, and

WHEREAS, it appears that it is in the best interest of the citizens of the State of Florida and the residents of Broward County, Florida, that JACK WHEELER be immediately suspended from the public office he now holds upon the constitutional grounds hereinafter set forth;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, as Governor, pursuant to the Constitution and Laws of Florida, do hereby find, determine, and for the purposes of Section 112.41, Florida Statutes, allege and specify:

A. That JACK WHEELER is and, at all times material hereto, was a "county officer" within the meaning of Section 7, Article IV, Florida Constitution (1968), to-wit: Comptroller, Broward County, Florida.

B. That on or about September 25, 1973, JACK WHEELER, in Broward County, Florida, having been duly sworn by a person authorized by law to administer the oath, and being lawfully required to depose the truth in a proceeding in a court of justice, to-wit: a session of the Grand Jury in and for said County and State, did commit perjury, in that he did then and there willfully and knowingly swear or affirm falsely with regard to a material matter on which such oath or affirmation was authorized or required, relating to an employment contract or memorandum executed by and between JACK WHEELER and PHYLLIS WHEELER, his wife, to the effect that said contract or memorandum of employment was signed and executed by the parties on February 4, 1969, as set forth more particularly in the Indictment of the Grand Jury of Broward County, Florida, during the Spring 1973—II Term thereof, on October 3, 1973, a true copy of which is attached hereto and incorporated herein as "Exhibit A".

C. That at the time of the above referenced testimony, the Grand Jurors were investigating the said JACK WHEELER's employment of his wife while he was a public official, as well as the contractual salary increases she received under the above-discussed employment agreement, a true photocopy of which agreement is attached hereto and made a part hereof, marked "Exhibit B", said investigation being for the purpose of determining whether said agreement or the salary increases provided thereunder were in violation of Florida Statute 116.111, which became effective on January 1, 1970 and which prohibits public officials from employing certain relatives; that the said JACK WHEELER did testify falsely as set forth above concerning the date of the execution of said employment agreement with his wife, in that he knew that said agreement had not in fact been executed on February 4, 1969, and knew that same had in fact been executed on a date after January 1, 1970.

D. That a public officer, such as an elected county comptroller, has a duty to refrain from conduct which is unlawful

or illegal, the probable consequences of which may result in incarceration and thus the substantial impairment of the officer's ability to perform his official duties, and that said duty has been violated by the commission of offenses alleged in Paragraphs "B" and "C" hereof.

E. That a public officer, such as an elected county comptroller, also has a duty to be truthful under oath, especially when his testimony before an official body, such as a Grand Jury, relates directly or indirectly to the performance of his official duties, and that said duty has been violated by the commission of offenses alleged in Paragraphs "B" and "C" hereof.

F. That the aforesaid acts constitute the offenses of malfeasance, misfeasance, neglect of duty, incompetence, and commission of a felony as such offenses are used in Article IV, Section 7(a), Florida Constitution (1968).

G. That the interest of the residents of Broward County, Florida, and the citizens of the State of Florida can best be served by the immediate suspension of JACK WHEELER from the public office which he now holds.

BEING FULLY ADVISED in the premises, and in accordance with the Constitution and Laws of Florida, the following Executive Order is hereby promulgated, effective at 5 o'clock p.m. on October 8, 1973.

Section 1.

That JACK WHEELER be, and he is hereby suspended as and from the public office which he now holds, to-wit: Comptroller, Broward County, Florida.

Section 2.

That JACK WHEELER be, and he is hereby prohibited from performing any official act, duty or function of any public office, from receiving any pay or allowances, and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from the effective date hereof, until further executive order, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 8th day of October, A.D. 1973.

REUBIN O'D. ASKEW
Governor

ATTEST:

RICHARD (DICK) STONE
Secretary of State

—which were referred to the Special Master on Executive Suspensions, Honorable Frederick B. Karl.

The President accorded the privileges of the floor to Honorable Frederick B. Karl, Special Master on Executive Suspensions, for the purpose of presenting reports pursuant to Rule 12, and to Mr. Dean Kane, assistant to the Special Master.

Whereupon the Special Master reported as to—

Executive Suspension of
Municipal Officials

February 26, 1974

Dear Mr. President:

You have referred to me the following cases of Municipal Officials who were suspended by the Governor by virtue of Article IV, Section 7(c), Florida Constitution, 1968.

BECKETT, John
City Commissioner
City of Fernandina Beach

DeLUCCA, Anthony
City Councilman
City of North Miami

DINSMORE, Mel J.
Mayor
City of Pinellas Park

HOUGH, Robert
Mayor
City of North Miami

KENNEDY, David
Mayor
City of Miami

LEE, Joseph S.
City Commissioner
City of Fernandina Beach

MEEKS, James A.
City Councilman
City of Apopka

SMITH, Curtiss W.
City Commissioner
City of Fernandina Beach

SMITH, J. Hosea
City Councilman
City of Hialeah

VALENTINE, William
City Councilman
City of North Miami

WILSON, Mark
City Councilman & Vice Mayor
City of North Lauderdale

Neither the Constitution nor Section 166.16, Florida Statutes, provides for Senate action on those cases [see also Fla. S. Jour. Special Sess. 6 (Feb. 17, 1969)], but we maintain a file on each one and ascertain, from time to time, the status of each.

The Governor has reinstated the following suspended municipal officials:

DINSMORE, Mel J.
KENNEDY, David

SMITH, J. Hosea
WILSON, Mark

The following suspended municipal officials were convicted at the trial court level.

LEE, Joseph S.

SMITH, Curtiss W.

The following municipal official resigned:

BECKETT, John

The following municipal official was cleared of criminal charges, but was not reinstated by the Governor because the suspension was terminated by virtue of the Constitution at the end of the term of office.

MEEKS, James A.

Our records indicate the following cases are open and have criminal charges pending.

DeLUCCA, Anthony
HOUGH, Robert

VALENTINE, William

Respectfully submitted,
FREDERICK B. KARL
Special Master on
Executive Suspensions

Whereupon the report was adopted by unanimous vote.

David Kennedy, Member, Inter-American Center Authority (Interama), Dade County, Florida:

Re: David Kennedy, Suspended February 26, 1974
Member of Inter-American
Center Authority (INTERAMA),
Dade County, Florida

Dear Mr. President:

This report is for the information of the Senate concerning the Executive Order of Suspension directed to Mr. David Kennedy.

On June 18, 1973, Mr. Kennedy was suspended from the office of Member of the Inter-American Center Authority (INTERAMA), Dade County, and charged with malfeasance, misfeasance, neglect of duty and commission of a felony.

It has been brought to the attention of the Special Master on Executive Suspensions that an Executive Order reinstating Mr. Kennedy, dated August 16, 1973, has been entered by the Governor.

In view of the above, no Senate action is necessary.

Respectfully submitted,
FREDERICK B. KARL
Special Master on
Executive Suspensions

Whereupon the recommendation was adopted by unanimous vote.

James Hugh (Jim) Howell, Member, Board of County Commissioners, Santa Rosa County, Florida:

Re: James Hugh (Jim) Howell February 26, 1974
Suspended Member, Board of
County Commissioners
Santa Rosa County, Florida

Dear Mr. President:

This report is for the information of the Senate concerning the Executive Order of Suspension directed to Mr. James Hugh (Jim) Howell.

On September 11, 1973, Mr. Howell was suspended from the office of Member of the Board of County Commissioners for Santa Rosa County. Mr. Howell was charged with accepting a bribe, which is a second degree felony.

It has been brought to the attention of the Special Master on Executive Suspensions that an Executive Order reinstating Mr. Howell, dated November 26, 1973, has been entered by the Governor.

In view of the above, no Senate action is necessary.

Respectfully submitted,
FREDERICK B. KARL
 Special Master on
 Executive Suspensions

Whereupon the recommendation was adopted by unanimous vote.

Dorcas Drake, Justice of the Peace, Tenth Justice of the Peace District, Duval County, Florida:

Re: Mrs. Dorcas B. Drake
 Suspended Justice of
 the Peace
 Duval County, Florida

February 26, 1974

Dear Mr. President:

This report is for the information of the Senate concerning the Executive Order of Suspension directed to Mrs. Dorcas B. Drake.

On October 16, 1972, Mrs. Drake was indicted by the Duval County Grand Jury on charges of grand larceny, malfeasance, misfeasance and nonfeasance. Subsequently, a criminal Information charging Mrs. Drake on a second count of grand larceny was filed by a specially assigned State Attorney.

On October 18, 1972, Mrs. Drake was suspended by the Governor from the office of Justice of the Peace of the Tenth Justice of the Peace District, Duval County, Florida.

The matter was, on that same day, referred to the Senate Select Committee on Executive Suspensions. Under Senate Rule 12.7(b) the Senate is prohibited from taking action on the suspension until final disposition of criminal charges at the trial court level. Therefore, the Senate Select Committee took no action toward preparing to report to the 1972 Regular Session of the Legislature.

At the time of the 1973 Regular Session no report was given due to the pending criminal charges.

It has been brought to the attention of the Special Master on Executive Suspensions that Mrs. Drake has resigned her office effective October 16, 1972, the date of the original Grand Jury indictments. The resignation was received by the Governor's office on June 19, 1973, and accepted as of the effective date.

In view of the above, no Senate action is necessary.

Respectfully submitted,
FREDERICK B. KARL
 Special Master on
 Executive Suspensions

Whereupon the recommendation was adopted by unanimous vote.

James H. King, Member, Board of County Commissioners, Holmes County, Florida:

Re: James H. King
 Member, Board of
 County Commissioners
 Holmes County, Florida

January 27, 1974

Dear Mr. President:

James H. King was duly elected as a member of the Board of County Commissioners of Holmes County, Florida, and was serving in that capacity on the 21st day of June, 1973, when an Executive Order was issued by Governor Reubin O'D. Askew suspending him from that office.

The Executive Order followed and was predicated upon Grand Jury Presentments of April 11, 1973 and May 9, 1973, which were attached to the Executive Order. The Presentments found James H. King guilty of misfeasance in office, and requested

the Governor remove this county commissioner from office. There was no indictment.

This matter was duly referred by the Senate President to the undersigned Special Master for investigation, report and recommendations as provided in Senate Rules.

A Pre-hearing Conference was held in Tallahassee on September 6, 1973 and the Hearing, at which testimony and other evidence was presented, was held in Marianna on October 22, 23 and 24, 1973. Reasonable notice of the time and place of both hearings was given to the Governor and to Mr. King. Mr. King attended both hearings, he testified on his own behalf, and was represented throughout the proceedings by his attorney, W. Paul Thompson, Esquire.

With the consent of the parties, this case and the cases of Jimmy Josey and Tamphus Messer were consolidated for hearing. Fifty-five witness subpoenas were issued at the request of the parties. The proceedings were reported by the court reporter employed by the Joint Management Committee and the transcripts of both hearings have been available for review by Senators since January 17, 1974.

In the case of *State ex rel. Meyerson v. Askew*, 269 So. 2d 671, the Supreme Court indicated that the evidence in each suspension case might be subjected to review by the Court. It should be noted here, therefore, that this report is not a complete restatement of all the evidence, but it is an advisory summary only. Let the record reflect that the final decision of the Senate will be based on a review of all evidence, the discussion and debate on the floor of the Senate and the content of this advisory report. Should any judicial review of the evidence be undertaken to determine whether it is sufficient to support the final decision of the Senate, the review should include the entire record made before the Special Master as well as the debate of the entire Senate.

The essence of the Suspension Order is that Mr. King, acting in concert with Mr. Josey and Mr. Messer, conducted themselves as County Commissioners in a manner that government in Holmes County ceased to exist and an emergency was created. The acts, practices and omissions specified in the Executive Order are alleged to constitute the offenses of malfeasance, misfeasance, neglect of duty and incompetence as such terms are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

Before approaching the specific charges, a general discussion of the governmental circumstances in Holmes County is in order.

Holmes County is one of the smallest counties in Florida. It is predominantly rural, with most of the inhabitants engaged in farming activities. Various forms of light industry provide additional employment opportunities. The County government is of the traditional type: that is, there is no county charter. There exists a fairly typical power structure that exercises no small degree of influence in the county generally, and specifically in the political arena.

When Mr. King took his seat on the board in November, 1970, he found the majority of his colleagues aligned with the so-called power structure. Moreover, most of the other county officers had been in office previously and were, therefore, experienced in their duties. Toward the end of his first two years in office, he frequently found himself at odds with the majority of the County Commission. He was somewhat concerned with the routine conduct of business of the board and with the seemingly excessive control of the Clerk of the Circuit Court, who acted as Clerk and Auditor for the board. One particular item that obviously troubled him was the proposed lease-purchase of two road graders for use in county road maintenance.

In the election of 1972, three new members of the board were elected, among them Mr. Josey and Mr. Messer. In the campaign that preceded that election, both Mr. Josey and Mr. Messer had raised the issue of the control of county government and had campaigned on something of a reform platform. They had promised to work for changes that they felt were important. Under the circumstances it was to be expected that those three commissioners, although having only a cumulative total of two years experience, would be drawn together in an effort to make the changes they desired.

The County Commission in Holmes County was required to look to the Clerk of the Circuit Court, an elected official, for information and guidance in all fiscal and procedural matters. Their legal counsel was elected under the terms of a Special

Act. Although there were those sources of fiscal and legal information, neither was directly under the control of the board and both were virtually immune from any disciplinary action by the board. So a power struggle was inevitable.

The Clerk of the Circuit Court played a dominant role in the drama in Holmes County. He is a strong-willed, experienced public official who apparently conducts his office on a "tight ship" basis. His wife is his key employee, having been grandfathered under the terms of the anti-nepotism statute. Traditionally he set the agenda for County Commission meetings opened most of the mail directed to the Commission, prepared the budget, advised the Commission on fiscal matters, exercised control over county purchasing and was recognized as the liaison between the public, county employees and the Commissioners. He was accustomed to his instructions and advice being followed, almost without question. It became apparent that he did not approve of the new order of things and, in many subtle ways, attempted to thwart it.

THE CHARGES

The first charge alleges that Mr. King participated in and took official action at a special meeting which was called and held without proper notice and without there being any lawful excuse or emergency which would warrant the holding of such meeting.

The evidence discloses that the meeting was, in fact, held on November 21, 1972, the day on which Mr. Josey and Mr. Messer were scheduled to take office. Neither is there any conflict in the testimony as to the fact that important official action was transacted. There are, however, some conflicts in the evidence with respect to notice and justification.

On November 20, 1972, the last day the former Commission was in office, there was a special meeting for the purpose of approving and executing the lease-purchase agreement on two road graders. That controversial agreement was approved over the objections of Mr. King. It was there disclosed that the graders had been delivered a short time previously. At that meeting, Mr. Josey and Mr. Messer were present as spectators; for although they had been elected and commissioned, their terms did not begin until the following day.

Certain witnesses denied that any mention was made at that meeting concerning a special meeting to be held on the following day. But other testimony establishes that in the final minutes of the meeting there was a request for a special meeting on the day following. The evidence further establishes that there was considerable informal discussion of the proposed meeting in the County Commission room following the adjournment of the meeting of the 20th. It was clear that the Commissioners here involved, as well as many others, learned of the contemplated meeting.

On the morning of November 21st, the suspended officials and newly elected Commissioner Harris were present and ready to meet. The only absent member was the hold-over Chairman, Mr. Padgett. No meeting was held in the morning because the Clerk had elected to go out of town, even though he had been specifically, but informally, told of the desire for the meeting. The Commissioners remained in the Courthouse almost continuously throughout the morning and until approximately 1:30 P.M. when the Clerk was available to meet with them. The Commissioners did not notify the press, neither did the Clerk or anyone in his office. Nevertheless the meeting was conducted in the County Commission meeting room. The most significant business transacted was the attempt to rescind the contract on the two road graders that were purchased in the twilight of the old Commissioners' terms. Other important, but less urgent, business was also transacted.

In summary, the evidence shows that the Commissioners were legally in office; that the business they wished to transact was such that a delay could have caused irreparable harm; that they attempted to advise the world of their intentions; that they made no effort to meet secretly; that the Clerk and his staff had knowledge of the desire for a meeting and they themselves gave no notice of it. Considering all the circumstances, including the fact that Mr. Josey, Mr. Messer and the other newly elected Commissioner were powerless to act officially until November 21st, there is no evidence of malfeasance, misfeasance, incompetency or neglect of duty.

The second charge relates to the action taken by the suspended officials at the meeting on November 21, 1972. It is alleged that they attempted to rescind the contract on the road

graders notwithstanding the advice of the elected County Attorney that the former Commissioners had entered into a legal and binding commitment; and that they altered the existing road program. There is no conflict in the testimony concerning the advice of counsel. He did advise that the contract was valid. But, he did not advise them against an attempt to rescind. When Mr. Addison Drummond, the County Attorney, testified he confirmed that the Commissioners had never acted contrary to his specific advice.

It should also be noted that the suspended officials were deeply concerned about the validity of the contract. It had not been awarded to the lowest bidder, the circumstances of delivery and the obvious desire of the old Commission to commit the incoming Commission to the three-year obligation gave rise to their concern. If they were correct in their conclusions as to validity (the question cannot be settled in this proceeding and the question was being pursued otherwise at the time of the hearing) any delay in action, even until the regularly scheduled organization meeting, could have weakened the County's position.

The road program involved was within the discretion of the County Commission and subject to modification at any time.

In summary it does not appear from the evidence that this charge constitutes any ground for removal.

The next charge relates to a meeting held on December 12, 1972, again, it is alleged, without proper notice or justification. There can be no question but that the evidence proves that a meeting was justified. There were matters that needed immediate attention and the board wished to change the dates of subsequent meetings. The meeting was called on short notice and without formality. It was an evening meeting, held in the Courthouse, and attended by all five Commissioners, the Clerk and the County Attorney. The suspended officials as well as the other two Commissioners were oblivious to the need for notice even though Mr. Padgett and Mr. King were holdovers. Apparently neither the experienced Clerk nor the experienced County Attorney thought to give notice either, although they both had advance knowledge of the meeting. Again, there was no attempt at secrecy.

Obviously better notice of the meeting was desirable, but attendance at the meeting by Mr. King, Mr. Josey and Mr. Messer, in the light of all the circumstances disclosed by the record, hardly constitutes a removable offense under the constitution.

Perhaps the most serious charge is based upon an alleged meeting at the "County Barn" at which the county road foreman was relieved of his duties. The three suspended county officials did assemble at the place indicated; the road foreman was indeed told by one member that he was through; the other two affirmed the statement and the road foreman assumed that it was an accomplished fact. Standing alone, this incident would appear to be a fairly clear violation of the "Sunshine Law." But, a more thorough examination of the record should precede judgment. In Holmes County it has been traditional for individual County Commissioners to visit the county barn to arrange for work or materials for their respective districts. The record shows that the Commissioners regularly made decisions, issued instructions and generally participated in the day-to-day activities of the road crew. There appears to be no legal prohibition against such activity. A chance meeting of three or more County Commissioners at the barn could have occurred on any given day of the week. There exists a fine line between such chance meetings and the prohibition against the conduct of public business out of public view. The Courts and the Attorney General have opined time and time again on the subject. Many questions are yet unanswered and it would require a sophisticated attorney with extensive experience to accurately judge whether a given incident is a violation. Certainly these suspended officials did not have the training, experience or advice to make an adequate judgment concerning their acts.

It simply does not appear from the record that there was an intentional, pre-planned attempt to violate the law. They went there, in what they thought was a normal and regular function of County Commissioners, for the purpose of righting certain wrongs they believed existed. In the conversation that ensued a confrontation situation was set in motion. The three inexperienced and somewhat naive Commissioners reacted. They later noted their action in a January public meeting of the board and caused it to be included in the minutes.

I find nothing in the statutes that specifically makes a violation of the Sunshine Law a suspendable offense. There is a

serious legal question as to whether it actually is. Recent history in Florida reveals that there have been indictments returned against officials for such violations and no suspensions have followed. This situation, parenthetically, would be a proper subject for legislative attention.

It should also be noted here that the Grand Jury, which presumably heard all testimony on the subject, failed to indict any of those involved in this charge.

It is therefore recommended that the Senate, under these particular facts and circumstances, hold that there were no grounds for removal as a result of those activities.

The fifth charge accuses the suspended officials, including Mr. King, of attempting to discharge the County Attorney who was duly elected for a term certain under the provisions of a Special Act. The dismissal in question took place at a regularly scheduled and noticed meeting held on December 4, 1972, approximately 13 days after they had taken office. The vote on the motion to dismiss him was 4 to 1, with only Mr. Padgett voting no. The term of the County Attorney was scheduled to end within less than one month, with the effective date of the new Article V of the Constitution. His compensation was \$50 per month. The record is not clear as to whether the action taken was out of ignorance of the Special Act or as an attempt to ignore it or in an attempt to secure independent counsel, answerable to the board. In any event, and regardless of the motive, the action was a nullity. At the very most, it was an inconsequential act that standing alone would not constitute grounds for removal. Again, the Grand Jury did not deem it an indictable offense, neither did the Governor undertake to suspend the other County Commissioner who also voted for the motion.

The final charge is grounded upon a long series of incidents wherein the suspended officials failed or refused to cooperate with other public officials in the county by failing or refusing to exercise their discretionary powers in a specific way and within a specified time. There is little to be gained by a detailed report of each incident because the allegation is not that the action or inaction of the officials in question was illegal, but that the conduct, taken as a whole, adds up to malfeasance, misfeasance, incompetency or neglect of duty.

A careful examination of the relevant, competent evidence makes it appear obvious that Holmes County suffered political agony between November 21, 1972 and the date of the Suspension Order. There were delays in the approval of vouchers; there were delays in the approval of bonds for deputy sheriffs; there were delays and there was confusion with respect to ambulance service; the Tax Assessor had trouble having his error letters approved; there was a rude rejection of a regional library plan; the new and controversial road graders were not placed in service; the Clerk was prohibited from using the facsimile signatures and from opening Commission mail; Commission meetings were held on Saturday so citizens could more conveniently attend; and a myriad of other activities that did, in fact, practically paralyze county government. But, the total record discloses that on an individual basis there was, at least, some justification for the Commissioners exercising their discretion in the manner in which they did. They set about to make dramatic changes in county government and in the historic routine. They exercised their discretion toward that goal. They met resistance at every turn. Communications and cooperation among county officials hit an all time low. But the record does not prove any unlawful act nor that the three suspended officials were the sole cause of the emergency that was created. No doubt they could have avoided the unpleasant crisis by conforming to custom, accepting the established routines, withholding innovation and generally not rocking the boat. They chose the other course and the establishment could not or would not conform to their methods.

A series of lawful acts performed in an unlawful manner could constitute misfeasance, but this is not the case here. Based on the competent evidence presented, one must conclude that these were lawful acts performed in a lawful manner and that, although frustrating and disruptive, they did not constitute any of the offenses set forth in the Constitution.

There can be little doubt that Mr. King, Mr. Josey and Mr. Messer were inexperienced, uninformed and inept. They obviously attempted to wrest control of the County from those who had held it so long. They were forthright in their efforts...even crude...and they often moved without proper consideration or advice. They lacked the experience and expertise to accomplish

their goals in an orderly manner and did not seem to be aware of that fact.

But they were duly elected by the people of Holmes County and the Senate has traditionally refused to second guess the judgment of the voters. The question is not whether they should have been elected, but rather have they been guilty of one or more of the offenses contained in the Constitution?

For the reasons stated, it is the finding of the undersigned Special Master that the Governor has failed to allege and prove that Mr. King was guilty of malfeasance, misfeasance, neglect of duty or incompetence as such offenses are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

Accordingly, it is recommended that James H. King not be removed and that he be reinstated in his office of County Commissioner, Holmes County, Florida.

Respectfully submitted,
FREDERICK B. KARL
Special Master on
Executive Suspensions

Senator Firestone moved that the Senate finds the evidence insufficient to support the Executive Order of Suspension by the Governor, and that James H. King not be removed from the office of Member, Board of County Commissioners, Holmes County, Florida, from which he had been suspended and that he be reinstated therein pursuant to the Constitution and Statutes of Florida. The vote was:

Yeas—31

Mr. President	Gruber	Pettigrew	Stolzenburg
Barron	Henderson	Plante	Trask
Childers	Johnson	Poston	Vogt
de la Parte	Johnston	Saunders	Ware
Firestone	Lane (23rd)	Saylor	Weber
Gallen	Lewis	Scarborough	Williams
Gillespie	McClain	Sims	Wilson
Gordon	Peterson	Smathers	

Nays—None

By unanimous consent Senator Myers was recorded as voting yea.

[By subsequent request Senators Deeb and Glisson were granted unanimous consent to be shown as voting yea.]

Whereupon James H. King was so reinstated.

Tamphus Messer, Member, Board of County Commissioners, Holmes County, Florida:

Re: Tamphus Messer
Member, Board of
County Commissioners
Holmes County, Florida

January 27, 1974

Dear Mr. President:

Tamphus Messer was duly elected as a member of the Board of County Commissioners of Holmes County, Florida, and was serving in that capacity on the 21st day of June, 1973, when an Executive Order was issued by Governor Reubin O'D. Askew suspending him from that office.

The Executive Order followed and was predicated upon Grand Jury Presentments of April 11, 1973 and May 9, 1973, which were attached to the Executive Order. The Presentments found Tamphus Messer guilty of misfeasance in office, and requested the Governor remove this county commissioner from office. There was no indictment.

This matter was duly referred by the Senate President to the undersigned Special Master for investigation, report and recommendations as provided in Senate Rules.

A Pre-hearing Conference was held in Tallahassee on September 6, 1973 and the Hearing, at which testimony and other evidence was presented, was held in Marianna on October 22, 23 and 24, 1973. Reasonable notice of the time and place of both hearings was given to the Governor and to Mr. Messer. Mr. Messer attended both hearings, he testified on his own behalf, and was represented throughout the proceedings by his attorney, W. Paul Thompson, Esquire.

With the consent of the parties, this case and the cases of James H. King and Jimmy Josey were consolidated for hearings. Fifty-five witness subpoenas were issued at the request of the parties. The proceedings were reported by the court reporter employed by the Joint Management Committee and the transcripts of both hearings have been available for review by Senators since January 17, 1974.

In the case of *State ex rel. Meyerson v. Askew*, 269 So. 2d 671, the Supreme Court indicated that the evidence in each suspension case might be subjected to review by the Court. It should be noted here, therefore, that this report is not a complete restatement of all the evidence, but it is an advisory summary only. Let the record reflect that the final decision of the Senate will be based on a review of all evidence, the discussion and debate on the floor of the Senate and the content of this advisory report. Should any judicial review of the evidence be undertaken to determine whether it is sufficient to support the final decision of the Senate, the review should include the entire record made before the Special Master as well as the debate of the entire Senate.

The essence of the Suspension Order is that Mr. Messer, acting in concert with Mr. King and Mr. Josey, conducted themselves as County Commissioners in a manner that government in Holmes County ceased to exist and an emergency was created. The acts, practices and omissions specified in the Executive Order are alleged to constitute the offenses of malfeasance, misfeasance, neglect of duty and incompetence as such terms are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

The report of the undersigned on the suspension of James H. King contains a recitation of the governmental circumstances in Holmes County as well as a description of the evidence with respect to the specific charges of the Suspension Orders. Those portions of the report on Mr. King are adopted and by reference incorporated in this report.

For the reasons stated, it is the finding of the undersigned Special Master that the Governor has failed to allege and prove that Mr. Messer was guilty of malfeasance, misfeasance, neglect of duty or incompetence as such offenses are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

Accordingly, it is recommended that Tamphus Messer not be removed and that he be reinstated in his office of County Commissioner, Holmes County, Florida.

Respectfully submitted,
FREDERICK B. KARL
Special Master on
Executive Suspensions

Senator Firestone moved that the Senate finds the evidence insufficient to support the Executive Order of Suspension by the Governor, and that Tamphus Messer not be removed from the office of Member, Board of County Commissioners, Holmes County, Florida, from which he had been suspended and that he be reinstated therein pursuant to the Constitution and Statutes of Florida. The vote was:

Yeas—30

Mr. President	Gruber	Pettigrew	Trask
Barron	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
de la Parte	Johnston	Saylor	Weber
Firestone	Lane (23rd)	Scarborough	Williams
Gallen	Lewis	Sims	Wilson
Gillespie	McClain	Smathers	
Gordon	Peterson	Stolzenburg	

Nays—None

By unanimous consent Senator Myers was recorded as voting yea.

[By subsequent request Senators Deeb and Glisson were granted unanimous consent to be shown as voting yea.]

Whereupon Tamphus Messer was so reinstated.

Senator Glisson was recorded present.

Jimmy Josey, Member, Board of County Commissioners, Holmes County, Florida:

Re: Jimmy Josey
Member, Board of
County Commissioners
Holmes County, Florida

January 27, 1974

Dear Mr. President:

Jimmy Josey was duly elected as a member of the Board of County Commissioners of Holmes County, Florida, and was serving in that capacity on the 21st day of June, 1973, when an Executive Order was issued by Governor Reubin O'D. Askew suspending him from that office.

The Executive Order followed and was predicated upon Grand Jury Presentments of April 11, 1973 and May 9, 1973, which were attached to the Executive Order. The Presentments found Jimmy Josey guilty of misfeasance in office, and requested the Governor remove this county commissioner from office. There was no indictment.

This matter was duly referred by the Senate President to the undersigned Special Master for investigation, report and recommendations as provided in Senate Rules.

A Pre-hearing Conference was held in Tallahassee on September 6, 1973 and the Hearing, at which testimony and other evidence was presented, was held in Marianna on October 22, 23 and 24, 1973. Reasonable notice of the time and place of both hearings was given to the Governor and to Mr. Josey. Mr. Josey attended both hearings, he testified on his own behalf, and was represented throughout the proceedings by his attorney, W. Paul Thompson, Esquire.

With the consent of the parties, this case and the cases of James H. King and Tamphus Messer were consolidated for hearing. Fifty-five witness subpoenas were issued at the request of the parties. The proceedings were reported by the court reporter employed by the Joint Management Committee and the transcripts of both hearings have been available for review by Senators since January 17, 1974.

In the case of *State ex rel. Meyerson v. Askew*, 269 So. 2d 671, the Supreme Court indicated that the evidence in each suspension case might be subjected to review by the Court. It should be noted here, therefore, that this report is not a complete restatement of all the evidence, but it is an advisory summary only. Let the record reflect that the final decision of the Senate will be based on a review of all evidence, the discussion and debate on the floor of the Senate and the content of this advisory report. Should any judicial review of the evidence be undertaken to determine whether it is sufficient to support the final decision of the Senate, the review should include the entire record made before the Special Master as well as the debate of the entire Senate.

The essence of the Suspension Order is that Mr. Josey, acting in concert with Mr. King and Mr. Messer, conducted themselves as County Commissioners in a manner that government in Holmes County ceased to exist and an emergency was created. The acts, practices and omissions specified in the Executive Order are alleged to constitute the offenses of malfeasance, misfeasance, neglect of duty and incompetence as such terms are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

The report of the undersigned on the suspension of James H. King contains a recitation of the governmental circumstances in Holmes County as well as a description of the evidence with respect to the specific charges of the Suspension Orders. Those portions of the report on Mr. King are adopted and by reference incorporated in this report.

For the reasons stated, it is the finding of the undersigned Special Master that the Governor has failed to allege and prove that Mr. Josey was guilty of malfeasance, misfeasance, neglect of duty or incompetence as such offenses are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

Accordingly, it is recommended that Jimmy Josey not be removed and that he be reinstated in his office of County Commissioner, Holmes County, Florida.

Respectfully submitted,
FREDERICK B. KARL
Special Master on
Executive Suspensions

Senator Firestone moved that the Senate finds the evidence insufficient to support the Executive Order of Suspension by the Governor and that Jimmy Josey not be removed from the office of Member, Board of County Commissioners, Holmes

County, Florida, from which he had been suspended and that he be reinstated therein pursuant to the Constitution and Statutes of Florida. The vote was:

Yeas—33

Mr. President	Gruber	Pettigrew	Trask
Barron	Henderson	Plante	Vogt
Childers	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Firestone	Lane (23rd)	Saylor	Williams
Gallen	Lewis	Scarborough	Wilson
Gillespie	McClain	Sims	
Glisson	Myers	Smathers	
Gordon	Peterson	Stolzenburg	

Nays—None

[By subsequent request Senator Deeb was granted unanimous consent to be shown as voting yea.]

Statement of Disclosure and Disqualification:

My cousin, Mr. W. Paul Thompson of DeFuniak Springs, has served as legal counsel to the Holmes County Commissioners whose suspensions will be the subject of a special session of the Senate on February 26th. Because of this connection, I feel I should recuse myself from voting on the suspensions of the Holmes County Commissioners, and will appreciate the records reflecting this.

D. ROBERT GRAHAM
Senator, 33rd District

Whereupon Jimmy Josey was so reinstated.

W. E. (Bill) Davis, Sheriff, Escambia County, Florida:

Re: Suspension of
W. E. (Bill) Davis
Sheriff, Escambia County
Pensacola, Florida

February 26, 1974

Dear Mr. President:

William E. (Bill) Davis was duly elected Sheriff of Escambia County, Florida, and was serving in that capacity at the time of the issuance of the original Executive Order of Suspension on August 14, 1970. At the time of his suspension, Sheriff Davis was under indictment on various criminal charges. Under the provisions of Senate Rule 12, this case was referred to the undersigned Special Master but held in suspense until the termination of all criminal proceedings at the trial court level.

Following two mistrials on one charge, a conviction in the lower court on the charge of jury tampering and the reversal of that conviction by the appellate courts, the State Attorney entered a Nolle Prosequi on or about July 12, 1973, thereby terminating, without prejudice to Senate action, all criminal proceedings then pending.

After due notice, a pre-hearing conference was held in Tallahassee. A second pre-hearing conference to further refine the issues was also conducted in Tallahassee. The hearing on the merits was held, by agreement, in Panama City, Florida, beginning on November 26, 1973 and continuing for five days. A total of 98 witness subpoenas were issued at the request of the parties. The testimony of 47 witnesses was heard and there were 28 exhibits offered. Sheriff Davis was represented throughout by his attorney Joe J. Harrell, Esquire, and he appeared and testified on his own behalf.

In the case of *State ex rel. Meyerson v. Askew*, 269 So. 2d 671, the Supreme Court indicated that the evidence in each suspension case might be subjected to review by the Court. It should be noted here, therefore, that this report is not a complete re-statement of all the evidence, but it is an advisory summary only. Let the record reflect that the final decision of the Senate will be based on a review of all evidence, the discussion and debate on the floor of the Senate and the content of this advisory report. Should any judicial review of the evidence be undertaken to determine whether it is sufficient to support the final decision of the Senate, the review should include the entire record made before the Special Master as well as the debate of the entire Senate.

The Amended Suspension Order levels thirty-one charges against Mr. Davis and alleges that they constitute malfeasance, misfeasance, neglect of duty, drunkenness, or incompetence as

such offenses are used in Section 7(a), Article IV, Florida Constitution, 1968 Revision.

Paragraph (23) charges that following his suspension, and during the trial of one of the criminal cases, Mr. Davis did unlawfully or improperly solicit or attempt to interfere with or influence certain members of the jury venire who were subject to being called in the case. At the pre-hearing conference it was determined that the alleged offense did not occur while Mr. Davis was serving as Sheriff and, therefore, should not be considered by the Senate.

Mr. Davis' attorney raised numerous objections to the Suspension Order, complaining that it was lacking in specificity. The objections were taken under advisement and the hearing was allowed to proceed subject to the objections with the assurance that if Mr. Davis or his counsel were of the opinion that the lack of specificity resulted in surprise or prejudice a further hearing would be held, upon their request, to permit further defensive testimony. No such further hearing was suggested and the undersigned Special Master is of the opinion that Mr. Davis was advised in sufficiently specific terms of the charges against him on all counts upon which this report and this recommendation is predicated.

In Paragraph (4) of the Amended Suspension Order it is charged that on December 23, 1968, in Escambia County, Florida, Mr. Davis failed, refused or neglected his duty to enforce the gambling laws of Florida. The evidence proves above, beyond and to the exclusion of any reasonable doubt that a game was being played in violation of the law; that Sheriff Davis was present on the occasion; that he knew or with reasonable diligence should have known that such violation of the law was taking place; and that he took no action to stop it nor did he make or cause any arrest to be made. Mr. Davis, in his testimony, affirmed that he probably would not have made an arrest if he had seen it.

Paragraph (6) of the Amended Suspension Order charges the same offense as alleged in Paragraph (4) except that it occurred on December 23, 1969. The evidence presented leaves no doubt that Mr. Davis was again guilty of failing or refusing to enforce the law as alleged.

Paragraph (11) of the Amended Suspension Order charges that for the period from June 1, 1968 through August 14, 1970, Sheriff Davis failed, refused or neglected to maintain adequate official records and accounts. The competent evidence presented by the Governor establishes that fact above, beyond and to the exclusion of any reasonable doubt.

Each of the foregoing charges constitute malfeasance and neglect of duty as heretofore defined by the Senate; and each was established by substantial competent evidence to the degree of proof required under the most severe test. Other charges were, in the opinion of the undersigned, established by a preponderance of the evidence.

a. Paragraph (8) of the Amended Suspension Order alleges that on or about June 1, 1966, the Sheriff converted to his own use certain beer that belonged to the State of Florida. This was beer that had been confiscated and stored at the Sheriff's office. The quantity was small and it had been stored for such an extended period of time that many of the cans had rusted. Nevertheless, it was taken to the property of the Sheriff and there appropriated to his own use.

b. Similarly, Paragraph (10) alleges the misappropriation of a quantity of firearms. The evidence is convincing that Mr. Davis did indeed misappropriate the firearms although the value was nominal.

c. Paragraph (13) of the Amended Suspension Order charges that Mr. Davis improperly forced, coerced or influenced certain of his employees to perform labor or services upon his private property and that those who participated received favorable treatment while those who refused were punished. The evidence with respect to parts of this charge is conflicting. The Sheriff was constructing a building on his own property. Throughout the period of construction much of the work was performed by various employees of the Sheriff's office. In Escambia County the County Prison Camp was known as "Camp Five." The Sheriff's construction project came to be known as "Camp Six." Although somewhat informal, there was an organized work party on a fairly regular weekly basis. The project was well known to all employees and the attendance was good. Not every employee participated, however, and there was only minimal evidence that those who failed or refused to work at "Camp Six"

were affected in any negative way. Mr. Davis viewed the entire project as a neighborly, friendly gesture on the part of his employees to help him with his needed improvements. He testified that he reciprocated by lending out his farm implements and by helping various deputies with their lawn or farm projects. But, the group of employees closest to the Sheriff, both socially and occupationally, were those who worked for him regularly and participated in the ever so subtle recruitment program. The reasonable inference that must be drawn from all the testimony on this point is that the Sheriff had a deep interest in the project which was well known to those who were employed by him. He created a situation which, viewed in the most charitable light, induced his subordinates to volunteer their off time hours with the hope of improving the employee-employer relationship. It must be concluded that in this instance the Sheriff improperly used the authority of his high public office for his own private purposes.

d. Paragraph (19) of the Amended Suspension Order charges that during his term of office the Sheriff permitted members of his family and others not employed by the Sheriff's office to take gasoline belonging to the public. Although there are serious conflicts in the testimony on this point, the weight of the evidence is against Mr. Davis. The charge was proven by substantial competent evidence.

e. Paragraph (30) of the Amended Suspension Order charges that the Sheriff, on divers occasions during his term of office, did wrongfully destroy, dismiss, alter or change criminal charges lawfully made by his employees or that he directed his employees to do so. This charge was somewhat lacking in specificity and was objected to by counsel for Mr. Davis. Obviously it is not specific as to dates, and at the outset of the hearing, was difficult to defend. However, there was no request for additional opportunities to present defensive testimony in rebuttal of the evidence presented by the Governor on this issue. The Governor proved, by a preponderance of the evidence, that Mr. Davis improperly exercised the authority of his office by withdrawing, removing or altering the charge records in various cases which had been made by his deputies. The Sheriff conceded that he had removed or altered records, but offered testimony by way of justification. He denied receiving any bribe or other compensation for doing so.

f. Paragraphs (14), (15), (16), (17), (18) and (26) of the Amended Suspension Order relate to Mr. Davis' activities with respect to trips he organized and supervised, as Sheriff, for the School Safety Patrol and will be discussed together.

The evidence discloses that on an annual basis Mr. Davis, as Sheriff, would organize summer trips for boys and girls in the School Safety Patrol. Money was collected from each participating school and from the children wishing to go on the trips. The money so collected was not deposited in an official public account, but was kept by the Sheriff or a deputy and disbursed as needed in a most informal manner and without a proper accounting. It was not established that the Sheriff actually appropriated the money in question for his own use, but there was an obvious commingling of the money with the personal funds of Mr. Davis and his deputy. There was some evidence that a portion of the funds was used to provide a dinner party, including cocktails, for the Sheriff and his invitees at an Elks Club. There was some evidence that the Sheriff, on occasions, rented two adjoining hotel or motel rooms separate from those occupied by the children and that such rooms were paid for from the funds donated. On the other hand Mr. Davis testified that he regularly gave small amounts of cash to participating children who needed or badly wanted some particular item or some additional spending money. The weight of the evidence does not clearly establish that Mr. Davis personally profited from the trips in question, but it does establish a pattern of improper handling, use and control of the funds and a failure or refusal to account in any reasonable manner for them.

The conduct of then Sheriff Davis on the trips is the subject of the other charges in the paragraphs mentioned above. Mrs. Karen Yvonne Iannone testified with respect to the charges contained in Paragraph (14) and (26). In 1965, when she was sixteen years of age and married to one of the deputy sheriffs, she was retained to go on one of the School Safety Patrol trips organized and supervised by Mr. Davis. She testified that on the first day of the trip she was told to ride with the Sheriff; that he stopped along the way to purchase liquor; that in a hotel in Tallahassee he first induced her to drink alcoholic beverages and then forced her to have sexual intercourse with him. Her words were that he raped her. On that same trip she had sexual intercourse with him on other occasions. Mr.

Davis refuted her testimony, but in view of all other testimony, the interests of the parties and their demeanor on the witness stand, the conflict in testimony must be reconciled against Mr. Davis.

Mrs. Beverly Watson Davis (not a relative of the Sheriff) testified that on the 1968 School Safety Patrol trip she was twelve years old. In a motel in Tallahassee Mr. Davis had about six of the female children in his room. During the course of the evening Mr. Davis gave her a "french kiss" and pushed her back on the bed. That was the first time she had been kissed by any man or boy outside of her family and certainly the first time she experienced a "french kiss." Her testimony was specific and convincing. Her testimony was corroborated by the witness Brenda Peck who said the girls were all in pajamas at the time and that the kiss in question lasted two to three minutes.

Another witness on the 1968 trip, Miss Robin Ziranik, testified that she observed the Sheriff in a swimming pool with the female students swimming through their legs. She also stated that she thought she saw him kissing the girls under the water.

Mr. Davis and one of his witnesses testified that his conduct with respect to the young girls was not improper, but rather in the category of father-daughter playfulness. Again the evidence must be reconciled against Mr. Davis.

The witness Rachael Wyrosdick testified that she was retained as a chaperone on the 1969 trip. She was twenty years of age and married at the time. During that trip and in a motel in Ocala, Florida, the Sheriff arranged for her to leave the children and stay in a room adjoining his own. She stated that the Sheriff tried to make her go to bed with him but that she refused. She testified that he kissed her, put his hands on her private parts and asked her if she would have a baby for him.

The witness Wanda Jean Sapp Mathis was a chaperone on the 1968 trip. She was eighteen years old and married at the time. Her testimony disclosed an incident in which the Sheriff kissed her while they were in a parked car. At one stop he arranged for her to be in a room adjoining his own and that they were often in each other's rooms. There was also a subsequent kissing incident. This witness also testified as to the Sheriff drinking with lady bus drivers and others during that trip. She further testified that she spoke to him concerning his french kissing of 5th and 6th grade students and that he replied "they had to learn sometime."

g. Paragraph (25) of the Amended Suspension Order alleges that Mr. Davis, having knowledge of a crime which had been committed on at least two occasions by Jimmy Rogers, one of his employees, did fail to arrest him or take any other action against him consistent with the law. The evidence establishes that Mr. Rogers used a public vehicle on two occasions for his personal vacation trips out of the Sheriff's jurisdiction; that the Sheriff knew, or by reasonable diligence should have known, of the illegal activity and did not prefer charges or require restitution.

The other charges included in the Amended Suspension Order fall into the category of activities that were only remotely connected with his official duties or the testimony concerning them was so conflicting or questionable that it is impossible to reconcile it against Mr. Davis. But one of the charges, because of its seriousness, must be discussed in some detail. It is set forth in Paragraph (31) of the Amended Order.

The testimony with respect to that charge shows that Mr. Carl Harper was serving as Escambia County Solicitor and had undertaken a limited investigation of the Sheriff's office. A deputy sheriff, Jerry Dasinger, was instructed by the Sheriff to get Mr. Harper. The deputy concentrated on his project for about five days, giving preference to that assignment over all of his other duties, and finally arrested Mr. Harper for driving while intoxicated. Mr. Harper was booked, fingerprinted and tested for alcohol in his blood. He suffered severe inconvenience and public embarrassment. The DWI case against him was summarily dismissed by the Judge at a preliminary hearing. All of the evidence of this bizarre incident that links Mr. Davis with the direct effort to ruin Mr. Harper through an improper arrest and perjured testimony came from the former deputy, Jerry Dasinger. Although his testimony was direct and specific, his own record of convictions of crimes and erratic conduct virtually destroyed his credibility and makes it impossible to find the suspended official in this case guilty of implication in the incident. It should be noted, however, that the Governor should have considered charging Mr. Davis

with malfeasance for employing Mr. Dasinger as a deputy and clothing him with the full authority of the sheriff's office. Mr. Dasinger, parenthetically, was one of the Sheriff's closest associates and a regular volunteer worker at "Camp Six."

For the reasons set forth above, and based upon all of the evidence in the record, it is respectfully recommended that the Senate find William E. (Bill) Davis guilty of malfeasance, neglect of duty and incompetence as charged in the paragraphs of the Suspension Order mentioned above. It is further recommended that Sheriff William E. (Bill) Davis be removed from the office of Sheriff of Escambia County, Florida.

Respectfully submitted,
FREDERICK B. KARL
Special Master on
Executive Suspensions

Senator Deeb was recorded present.

Senator Firestone moved that the Senate finds the evidence supports the Executive Order of Suspension by the Governor, and that W. E. (Bill) Davis be removed from the office of Sheriff of Escambia County, Florida, pursuant to the Constitution and Statutes of Florida.

Senator Gillespie presiding.

The President presiding.

Senator Smathers: In suspension hearing re L. E. Hatcher, Member, Board of County Commissioners, Dixie County, your report enunciated the weight of evidence (degree of proof) that is necessary in this type of hearing. We are all aware that criminal and civil proceedings have different rules . . . for the sake of the Senators here today, what exactly is the degree of proof necessary?

Special Master: It has always been the Senate's position that all that was required was a preponderance of the evidence . . . that Senators need to be convinced in their own conscience that the weight of evidence be sufficient to cause the removal. This is a question raised in this case, and I expect that this matter will go on to court if you uphold this report, and for that reason I segregated out those charges that I could report as being above and beyond and to the exclusion of any reasonable doubt. There were three of those (in which there was no such doubt) and I segregated them deliberately because, as I say, if you uphold this report the record will show . . . no matter what the court holds to be the degree of proof . . . that there are charges in here that will be sustained.

President Horne: Yet it is your legal opinion to us that the legal requirement in criminal cases of 'above and beyond' does not apply in these proceedings?

Special Master: That's correct, a preponderance of the evidence and a majority vote is what is required to cause the removal or reinstatement of a suspended official.

President Horne: Is that opinion enunciated in your report?

Special Master: No, not specifically . . . but it was enunciated in the Hatcher case.

Senator Barron: Mr. President, as Chairman of the Committee on Rules and Calendar, I have caused inquiry made into this question and share the opinion of the Master as just expressed.

I move that this body further affirm the expression of same as set forth in the Master's report in the Hatcher case (pages 624 and 625, Senate Journal of May 29, 1973) and as again enunciated here this date, namely, that the weight of evidence (degree of proof) required to remove officials by this body is a preponderance of the evidence, such as to persuade a Senator's conscience that the evidence is sufficient to remove a person charged with a public trust.

The motion by Senator Barron was unanimously adopted.

Mr. President: Let the journal reflect that the original exhibits, transcripts, findings, recommendations, orders, etc., as to these and other Suspension Orders are and will be filed and maintained in the office of the Secretary, and that same have been available to the members, have been examined and inquired about but that, by such a recital, the Senate does not recognize or accede any rights or jurisdiction of review of these Constitutional functions by any court.

The question recurred on the motion by Senator Firestone. The vote was:

Yeas—33

Mr. President	Gordon	Myers	Stolzenburg
Barron	Graham	Peterson	Trask
Childers	Gruber	Pettigrew	Vogt
Deeb	Henderson	Plante	Ware
de la Parte	Johnson	Poston	Williams
Firestone	Johnston	Saunders	Wilson
Gallen	Lane (23rd)	Sayler	
Gillespie	Lewis	Sims	
Glisson	McClain	Smathers	

Nays—None

By unanimous consent Senator Scarborough was recorded as voting yea.

Whereupon W. E. (Bill) Davis was so removed.

Unanimous consent was granted Senators Glisson and Deeb to be shown as voting yea on the Executive Orders of Suspension in the cases of James H. King and Tamphus Messer, Members of the Board of County Commissioners of Holmes County, Florida; and Senator Deeb yea on the Executive Order of Suspension in the case of Jimmy Josey, Member of the Board of County Commissioners of Holmes County, Florida.

On motion by Senator Barron, at the hour of 12:26 p.m., the President sounded the gavel and declared the Senate in Special Session adjourned sine die.